

1 OPEN EXECUTIVE SESSION TO CONSIDER AN ORIGINAL BILL
2 ENTITLED "EXPIRING PROVISIONS IMPROVEMENT REFORM AND
3 EFFICIENCY (EXPIRE) ACT;" AN ORIGINAL BILL ENTITLED "THE
4 TAX TECHNICAL CORRECTIONS ACT OF 2014;" AND TO FILL
5 VACANCIES ON SUBCOMMITTEES, THE JOINT COMMITTEE ON
6 TAXATION, THE CONGRESSIONAL OVERSIGHT GROUP, AND THE
7 CONGRESSIONAL TRADE ADVISORS ON TRADE POLICY AND
8 NEGOTIATIONS

9 THURSDAY, APRIL 3, 2014

10 U.S. SENATE,

11 Committee on Finance,

12 Washington, DC.

13 The hearing was convened, pursuant to notice, at
14 10:05 a.m., in Room 215, Dirksen Senate Office Building,
15 Hon. Ron Wyden (chairman of the committee) presiding.

16 Present: Senators Rockefeller, Schumer, Stabenow,
17 Cantwell, Nelson, Menendez, Carper, Cardin, Brown,
18 Bennet, Casey, Warner, Hatch, Grassley, Crapo, Roberts,
19 Enzi, Thune, Burr, Isakson, Portman, and Toomey.

20 Also present: Democratic Staff: Joshua Sheinkman,
21 Staff Director; Michael Evans, General Counsel; Jocelyn
22 Moore, Deputy Staff Director; Adam Carasso, Senior Tax
23 and Economic Advisor; and Ryan Abraham, Senior Tax and
24 Energy Counsel. Republican Staff: Mark Prater, Deputy
25 Staff Director and Chief Tax Counsel; Nick Wyatt, Tax and

1 Nominations Professional Staff Member; and Jeff Wrase,
2 Chief Economist.

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1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The Finance Committee will come to
5 order.

6 The Committee meets today to consider the Expiring
7 Provisions Improvement Reform and Efficiency Act of 2014.

8 We are also going to consider an additional bill,
9 making technical corrections and clearing away so-called
10 dead wood in the Tax Code.

11 Finally, we are going to consider Committee
12 organizational changes.

13 Now, we will have opening statements.

14 For the next 13 days, millions of Americans are
15 going to be searching for receipts, wading through a
16 blizzard of forms, and parking themselves for hours in
17 front of their computers doing their taxes.

18 Instead of enjoying spring and the opening days of
19 baseball season, millions of Americans are required by
20 their government to do their tax math twice just to see
21 if they are affected by the alternative minimum tax. And
22 too often, when our neighbors turn to tax preparers for
23 help, they fall victim to incompetent or predatory work
24 that opens them up to a grueling audit.

25 Complying with the staggering complexity of our tax

1 code is now the fodder of nightmares for Americans across
2 the country.

3 The very fact that the Committee is marking up the
4 EXPIRE Act today shows the urgency of tax reform. Now, I
5 understand why Americans who might flip on C-SPAN and
6 watch this proceeding are skeptical about the prospects
7 of real improvement. There have been loads of promises
8 in the past of tax reform.

9 When I joined the Finance Committee nearly a decade
10 ago, I could not possibly have imagined chairing
11 Congress' 15th time renewing the stop-and-go tax cuts
12 called extenders. Many of these extenders are well
13 intentioned and ought to be permanent, but their stop-
14 and-go nature, obviously, contributes to the lack of
15 certainty and predictability that America needs to create
16 more family wage jobs.

17 It does not have to be this way. One reason I am
18 convinced of that is I have spent 9 years of sweat equity
19 with colleagues in both parties to construct the Senate's
20 first bipartisan Federal Income Tax Reform Plan in 30
21 years.

22 Senators Begich and Coats have pitched in, as well
23 as former Senator Gregg, who sat with me and worked on it
24 nearly every week for 2 years.

25 Once these extenders are settled, I look forward to

1 talking with Senator Hatch and all our colleagues about
2 their thoughts on tax reform and whether these bipartisan
3 ideas can serve as a basis for comprehensive reform.

4 I know that every member of the Finance Committee
5 would rather be marking up a broad-based plan to grow our
6 entire economy rather than taking this piecemeal
7 approach.

8 Now that everybody knows what a tax extender is and
9 that it is possible for Democrats and Republicans to
10 share some ideas on reform, I want to be straightforward
11 on one point. This will be the last tax extenders bill
12 the Committee takes up as long as I am the Chairman.
13 That is why the bill is called the EXPIRE Act. It is
14 meant to expire.

15 Now, with respect to this morning, I am sure some
16 Americans paying attention are going to ask if the
17 complexity of the current system makes no sense and it
18 would be smarter to reform comprehensively rather than
19 pass extenders, why is the Finance Committee working on
20 this today.

21 First, having been Chairman of the Finance Committee
22 for exactly 19 working days, constituents and colleagues
23 tell us they do not envision a comprehensive reform bill
24 passing before November. So in the absence of needed
25 long-term reforms, here is what happens if the Congress

1 just drops extenders now.

2 The tax credit that helps returning Veterans find
3 good-paying jobs would expire and more of our Veterans
4 would fall into poverty.

5 The biggest Federal incentive for scientific
6 research would vanish. That would make it tougher for
7 entrepreneurs across the country and entrepreneurs in
8 Portland and Eugene Corvallis and across the Nation to
9 turn their ideas into thriving businesses.

10 Homeowners fortunate enough to have their mortgages
11 lowered or forgiven could get hit with a huge unexpected
12 tax bill. That could be as many as 28,000 people in my
13 home State.

14 Without the new markets tax credit, communities
15 mired in poverty would lose a proven tool to draw
16 investments and good jobs.

17 Clean energy would take a blow, threatening good
18 American jobs and our ability to compete on technology
19 with countries like China and Japan.

20 And families paying for college would lose a \$4,000
21 deduction, which 28,000 Oregon families use each year to
22 help cover the cost of tuition.

23 Without fresh comprehensive reform to put in place,
24 it makes no sense to argue these incentives ought to
25 disappear for good right now. Jobs, innovation and

1 research, and peoples' homes are on the line.

2 Second, passing the bill soon and making it the
3 final extension puts an expiration date on the status quo
4 and it builds a bridge to comprehensive tax reform and
5 gives our people 2 years of certainty about their tax
6 bill. Stretching the debate out over several more months
7 only leaves our taxpayers in limbo and has them waste
8 more time and money trying to plan for what is ahead.

9 Third, simply dropping worthwhile tax incentives now
10 does not get Congress any closer to comprehensive tax
11 reform. It sacrifices valuable priorities without
12 getting the real job of comprehensive reform done.

13 So I would say to colleagues on both sides of the
14 aisle, let us pass this bill today and then put a lens to
15 each of these provisions before deciding which ones
16 deserve a permanent spot in a 21st century tax code.

17 That task is going to be harder if these incentives
18 disappear now.

19 Ambassador Baucus, who is going to do an outstanding
20 job in China, teamed up with Senator Hatch and built a
21 strong foundation for comprehensive reform. They held an
22 extensive series of hearings and put out option papers,
23 and the Majority staff published several discussion
24 drafts.

25 The draft on energy had a number of good ideas for

1 how to move from stop-and-go policies to smart, integral
2 parts of the tax code.

3 Chairman Camp, who will be much missed when he
4 retires at the end of this Congress, has worked hard in
5 the House and introduced a comprehensive bill.

6 All have offered some fresh, innovative ideas and it
7 is a safe bet that when the next comprehensive reform
8 becomes law, it is going to draw extensively from their
9 proposals.

10 This spring, I am going to start holding hearings on
11 fixing the broken tax code and building a new system that
12 works in today's global digital economy. On Tuesday, we
13 are going to have a hearing on how to protect taxpayers
14 from incompetent and fraudulent preparers. Now, there
15 are other issues, like identity theft and taxpayers'
16 rights, that we will have to examine.

17 Senators Nelson and Cardin have put a lot of time
18 and effort into solving these challenges. And this
19 Committee will also need to take a hard look at the
20 issues surrounding multi-employer pension plans in order
21 to protect Americans' hard-earned benefits.

22 This bill takes a first step and I intend to work
23 with my colleagues to do more. But today we have got to
24 balance short-term needs with long-term goals, and the
25 bill before us today does that. Senator Hatch and I

1 agreed to start trimming, to start reconfiguring the
2 overgrown web of extenders.

3 After President Reagan signed the 1986 Tax Reform
4 Act into law, there were only 14 provisions that carried
5 expiration dates. So we have got a lot of heavy lifting
6 to do to fix the tax code.

7 So when the Committee put this package together, we
8 said no to some things and we reformed some others. I
9 hope we can all be on the same page today and be sparing
10 with amendments.

11 In closing, I would just like to thank Senator
12 Hatch, who has been so cooperative with me on this and
13 other matters. As Senator Hatch and I have said a number
14 of times, this Committee has always been run in a
15 bipartisan fashion, and I know on our watch we are going
16 to continue to do that.

17 Senator Hatch?

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH

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4 Senator Hatch. Thank you, Mr. Chairman. And I am
5 proud of you and the effort that you are putting forth.
6 You certainly have open arms and we appreciate it very
7 much. We appreciate all our colleagues on this
8 Committee. This is a really great Committee.

9 Before I give my opening statement, I would like to
10 take a moment just to express my deepest sorrow for those
11 who lost their lives or who were injured in yesterday's
12 shooting at Fort Hood. I think all of our hearts and
13 prayers go out to these folks and what they have been
14 through, in a senseless tragedy.

15 We will never fully understand why these things
16 happen, but I know we all feel very much the same about
17 that. I just hope that those who have been badly injured
18 will have a full recovery.

19 Mr. Chairman, thank you for your nice statement.
20 You are one of the true policy wonks of the Senate, and I
21 mean that in the most complimentary form. You have been
22 willing to work with both sides. The work you have done
23 on tax reform has been very interesting to me.

24 I am looking forward to working with you.

25 The Chairman. Thank you.

1 Senator Hatch. I want to take a moment to express
2 just enough appreciation to you so you know that we will
3 appreciate working with you, but we are going to have to
4 work together and we are going to have to work together
5 on executing this markup. But we have worked together in
6 preparing for it and, yes, there are things that I wish
7 were different, but that is the way it is right now.

8 Tax extenders legislation is always difficult to
9 move. It comes with a number of moving parts and
10 competing interests. It is never easy.

11 Throughout this process, we have both worn two hats.

12 You have worn one hat representing the interests of the
13 Democratic members of the Committee. You have also
14 donned a hat as the senior Senator from Oregon.

15 Likewise, I have worn one hat as I have worked to
16 represent the thoughts and the concerns of all the
17 Republicans on the Committee and another hat as the
18 Senator from Utah. But we both represent everybody on
19 this Committee and I hope we can do that.

20 In a sense, we have been brokers of the diverse
21 interests of all the members of this Committee. That has
22 meant compromise and, as it often does, compromise has
23 led to some outcomes that were not optimal for you or for
24 me. Like I said, it has not been easy, but it is
25 important work, nonetheless.

1 At the outset of this process, you and I released a
2 joint mark that represented the starting point for tax
3 extenders and the tax extender debate, and I was pleased
4 with the substance of that mark. We made some difficult
5 choices in the process of reaching that agreement, but I
6 believe that we are moving in the right direction.

7 The last time we marked up a tax extenders package
8 was 2012. The bill reported at that time represented
9 roughly a 25 percent reduction in the number of expiring
10 tax provisions. I remember the Chairman then did not
11 think we could do that, but we did.

12 By reducing the number of extenders, I believe we
13 were, as a Committee, acting to eliminate wasteful and
14 really distortive provisions in our already complicated
15 tax code.

16 The mark we released earlier this week continued in
17 that same fashion by further reducing the number of
18 extended tax provisions. That is the direction I believe
19 we should be moving.

20 Obviously, the Chairman's mark that we will be
21 amending today is different from the joint mark that we
22 released earlier this week and the final product we will
23 be voting on at the end of this markup will likely also
24 be different.

25 I expect that the Committee will report a final tax

1 extenders package today, probably with bipartisan
2 support. However, the substance of that package is still
3 to be determined.

4 That being the case, it is difficult right now to
5 say where any of us will come down when we vote on final
6 passage, but that should not take away from the
7 deliberative and thoughtful process that our
8 distinguished Chairman, Chairman Wyden, has utilized in
9 putting this legislation together.

10 Once again, Mr. Chairman, you deserve a lot of
11 praise for how this has gone so far. As most of you
12 know, over the last few years, I have loudly and
13 repeatedly decried the deterioration of regular order
14 here in the Senate. I believe it is vital that Senate
15 committees fulfill their responsibilities, and this is
16 especially true of the Finance Committee, which has so
17 many important issues under its jurisdiction. And
18 regardless of the final vote tally, I believe that the
19 Finance Committee is doing its job with regard to the tax
20 extenders legislation.

21 In addition to regular order and a vibrant committee
22 process, I believe we need to restore real debate to the
23 Senate. That means a robust discussion of the issues and
24 votes on various amendments.

25 As we have seen this week on the floor of the

1 Senate, that type of real debate is in short supply these
2 days. That said, I believe we will see a real debate on
3 the Finance Committee today. We are going to talk a lot
4 about a lot of different issues and I suspect the
5 discussion will be spirited at times.

6 We are going to have a number of votes on
7 amendments, some of which may be difficult votes for
8 individual members. This is a good thing. It is how the
9 Senate is supposed to operate.

10 I want to commend you once again, Mr. Chairman, for
11 pursuing this process and I want to thank all of our
12 colleagues here on the Finance Committee, Republicans and
13 Democrats, for their participation in the process thus
14 far.

15 Thank you, Mr. Chairman.

16 The Chairman. Thank you, Senator Hatch. And I
17 know we are going to work very closely together
18 throughout the morning and in the days ahead.

19 I would like to now recognize other Senators in
20 order of seniority who would like to make opening
21 statements, and I would just ask Senators to keep their
22 statements to no more than 4 minutes.

23 Senator Stabenow?

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1 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR
2 FROM MICHIGAN

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4 Senator Stabenow. Thank you, Mr. Chairman. I will
5 be brief. But, first, let me thank you again. It is
6 wonderful seeing you in that chair and thank you for
7 working so hard with everyone on both sides of the aisle
8 to put together what we hope and, I understand from your
9 words, will be the last tax extenders markup.

10 We want to do comprehensive tax reform and this will
11 be a step in doing that. When we look at all these
12 policies, it really is about jobs and economic
13 development, and it is so important that we get this all
14 the way through the finish line.

15 I want to specifically highlight the mortgage debt
16 relief provision and thank you for having this in the
17 bill. This is a top priority for millions of families,
18 as you know, who are struggling to stay in their homes.

19 Despite the improving housing market, we know that a
20 lot of families are still under water on their mortgages.
21 I know that is certainly true in Michigan. They owe tens
22 of thousands of dollars more than what their home is
23 worth right now.

24 They are trying to do the right thing. They are
25 sitting down with their lenders right now and trying to

1 work out agreements to get up-to-date. But we are in a
2 situation where, unbelievably, for the first time since
3 the housing crisis began, if we do not act and if this
4 does not get all the way through the Congress, the IRS
5 will tell the same families that are sitting down right
6 now doing their taxes, while they are also trying to find
7 mortgage relief at their bank, that they are going to
8 have to pay more taxes as they refinance and count as
9 income debt forgiveness from their lender.

10 It is even more absurd when we think about the fact
11 that we have banks that are now required to provide
12 relief to homeowners to write off their costs. On the
13 one hand, the bank is to write off the relief that they
14 are providing to a homeowner, but the homeowner right
15 now, without the change that we are making, will be
16 paying more taxes.

17 It makes absolutely no sense when, on the one side,
18 Wall Street Bank gets a tax break, but 2 million middle
19 class families are left with a big tax bill.

20 So I just want to thank you for including this, Mr.
21 Chairman, and, also, just mention, very briefly, that I
22 am very pleased we were able to reach agreement to extend
23 the incentives for advanced bio-fuels, the refueling
24 infrastructure for alternative vehicles. I am hopeful we
25 are going to have agreement today on the energy efficient

1 homes and buildings initiatives and renewable energy
2 production tax credit.

3 With so many things that are important here in the
4 bills, let me also just thank you for including our
5 bipartisan effort on conservation easements, the research
6 and development tax credit, and the new markets tax
7 credit.

8 So thank you very much, Mr. Chairman.

9 Thank you, Senator Stabenow.

10 Senator Roberts is next on the other side and I want
11 to recognize him. He has done some awfully good work on
12 some of these provisions.

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1 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
2 FROM KANSAS

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4 Senator Roberts. Thank you, Mr. Chairman. I want
5 to congratulate you, like every other member will be
6 congratulating you.

7 The people of Wichita, Kansas are not very much
8 aware, but will be aware very soon, that you were born in
9 Wichita, Kansas before moving to that other State out
10 west. And we are very proud of you and I personally am
11 very proud of you and have been working with you on an
12 awful lot of other matters, including the Intelligence
13 Committee.

14 So I have no opening statement, which is probably
15 the best statement I could make.

16 The Chairman. Thank you, and I always appreciate
17 your thoughtfulness.

18 Let us go next in order of seniority -- our next
19 speaker would be Senator Cantwell.

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1 OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR
2 FROM WASHINGTON

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4 Senator Cantwell. Thank you, Mr. Chairman, and
5 thank you for holding this hearing and for talking about
6 these important issues for individuals in our State.

7 The bipartisan effort today here is to ensure
8 predictability and certainty that will help grow our
9 economy.

10 Before I start, I would like to say something about
11 the communities of Oso, Darrington, and Arlington,
12 Washington. These communities have been through a very
13 painful process, facing one of the worst disasters our
14 State has seen, and I want to thank all my colleagues for
15 their comments and support on this issue.

16 In the future, we would like to join our colleagues
17 who are on this Committee who have also dealt with
18 natural disasters in the discussion of how natural
19 disasters impact businesses and some of the things that
20 we can do to help provide for relief.

21 My number one priority here is to make sure that we
22 are continuing to support economic growth in the United
23 States of America and job creation, and many of these
24 provisions which expired in 2013 are important to just
25 that.

1 The majority of these provisions provide incentives
2 for business investment and return to taxpayers, which,
3 in turn, increases local spending and aids our economy.

4 The state and local sales tax deduction is of
5 particular importance to my State and to Texas, Wyoming,
6 Florida, South Dakota, Nevada, Alaska, and Tennessee.
7 And while we would like to make this permanent and the
8 parity with other States, I know that my colleagues,
9 Senators Thune, Nelson, Cornyn and Enzi agree with me,
10 and so we will be offering something to make that
11 deduction permanent. But I am glad that we are at least
12 continuing that deduction, since it lapsed in 1986 and we
13 brought it back in 2004. The 24 percent of Americans who
14 claim state and local sales tax deductions should not
15 constantly have to question whether they will be able to
16 make that deduction.

17 So I am pleased we are moving forward, but we have
18 to be even more aggressive on this issue.

19 I also want to comment on extending tax provisions
20 that are also helping our economy grow -- the wind
21 production tax credit, the low income housing tax credit,
22 the new market tax credit, the biodiesel tax credit, the
23 veterans' work opportunity tax credit, R&D. All of these
24 things are so essential for businesses to have
25 predictability and to basically leverage further private

1 sector investment.

2 Businesses plan ahead and so that means they need
3 the certainty to do so. For example, the new market tax
4 credit, which provided tax investments to invest in low
5 income communities, between 2003 and 2010, it cost the
6 Federal Government \$5.4 billion in new market tax
7 credits, but it generated \$45 billion in investment and a
8 leverage of approximately 8-to-1.

9 To me, those are the things that we should be doing
10 to help our economy.

11 The veterans' work opportunity tax credit, another
12 success story, giving employers who hire veterans a tax
13 break. It has helped companies in my State hire veterans
14 and it has helped them get a workforce.

15 The biodiesel tax credit lapsed and the last time it
16 lapsed, it resulted in a 42 percent drop in production in
17 2010, leading to a loss of between 8,000 and 10,000 jobs
18 and a reduction of \$879 million in real GDP and drop of
19 household income of \$485 million.

20 So to me, Mr. Chairman, these are real issues about
21 real investment strategies and nothing could be more
22 important, I think, right now than a biodiesel market
23 that helps us in our huge competitive nature with getting
24 a new aviation jet fuel.

25 We are very close to having a drop in jet fuel that

1 will help the United States of America continue to be
2 competitive in aviation manufacturing and aviation in
3 general, but this is exactly why we need certainty and
4 predictability.

5 I also just want to mention the low income housing
6 tax credit, which also has been leveraged and fills a
7 gap, and I will have a lot more to say about the solar
8 tax credit, what I think is germane to this legislation.

9 But I see my time has expired, Mr. Chairman, and,
10 again, thank you for getting this bipartisan measure --
11 and to Senator Hatch for working across the aisle to help
12 us get his legislation before the full Senate.

13 The Chairman. Thank you, Senator Cantwell.

14 Senator Enzi is next.

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1 OPENING STATEMENT OF HON. MIKE ENZI, A U.S. SENATOR FROM
2 WYOMING

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4 Senator Enzi. Congratulations, Mr. Chairman, and I
5 really appreciate all the work that you have done on tax
6 reform and look forward to working with you on that.

7 I am glad to hear your statement that this will be
8 our last tax extender package. This off-again-on-again
9 cycle of extenders creates too much uncertainty among the
10 businesses. Some of them are willing to take the risk
11 that maybe they will get the credit if we extend it.
12 Others just do not do what needs to be done waiting to
13 see if we are going to take action.

14 So it is difficult for both individuals and
15 businesses and I think it even hampers charitable giving.
16 So we need to gain more ground and get these extenders
17 done permanently.

18 Now, members on both sides of the aisle have offered
19 proposals and introduced legislation to reform the tax
20 code. I hope we take a look at the bill to reform the
21 United States International Tax Rules, get that written
22 up, and, also, the bill that would allow us to get the
23 dates for reporting so that people do not have to keep
24 revising their income tax forms and make it fairer and
25 simpler.

1 I know none of that fits in with this, but, again, I
2 look forward to working on that and particularly working
3 on any transition that we might need as we do the tax
4 corrections, because some of those corrections, if they
5 are made overnight, would bankrupt individuals and
6 companies. And so we need to make sure that we get a
7 smooth transition there so it is fair to the individuals,
8 as well as to the country.

9 Thank you, Mr. Chairman.

10 The Chairman. Thank you, Senator Enzi. And I am
11 really pleased that you are already starting to raise the
12 importance of transition rules as part of comprehensive
13 reform and we are going to work closely with you.

14 Senator Nelson?

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1 OPENING STATEMENT OF HON. BILL NELSON, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Nelson. Mr. Chairman, I have a gift for
5 you.

6 The Chairman. Oh, my goodness.

7 Senator Nelson. I will insert my comments in the
8 record.

9 The Chairman. Oh, my God, special blessings from
10 God.

11 [Laughter.]

12 Senator Nelson. And I will thank you and Senator
13 Hatch for what is so desperately needed in the United
14 States Senate, which is a bipartisan approach.

15 Thank you.

16 [The prepared statement of Senator Nelson appears at
17 the end of the transcript.]

18 The Chairman. Thank you, Senator Nelson.

19 Senator Isakson?

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1 OPENING STATEMENT OF HON. JOHNNY ISAKSON, A U.S. SENATOR
2 FROM GEORGIA

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4 Senator Isakson. Thank you very much, Mr.
5 Chairman. And I will add my congratulations to you and
6 my appreciation for the openness in which you have
7 approached this entire process.

8 As a relatively new member of the Committee, I want
9 to especially thank Senator Hatch for his comprehensive
10 and inclusive approach in the days leading up to this
11 markup. It has been very enlightening for me and very
12 helpful for me and I appreciate his leadership.

13 I will not make any comments except to say I
14 appreciate the Menendez-Enzi-Isakson amendment dealing
15 with FIRPTA. FIRPTA deals with real estate investment
16 trusts and limitations on investment by foreign entities.
17 What is so interesting is the real estate investment
18 trusts were created by the 1986 Tax Act and when we
19 unintentionally destroyed passive loss and reached back,
20 we changed an industry for the worse, not for the better.

21 So your approach of openness and comprehensive
22 nature in approaching tax reform will keep us from doing
23 that next time.

24 My last comment is I am convinced now that micro
25 solutions are harder than macro solutions. Hopefully, we

1 will get to comprehensive reform and get away from
2 tweaking like we are doing today.

3 The Chairman. Well said.

4 Next is Senator Cardin.

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1 OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, A U.S.
2 SENATOR FROM MARYLAND

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4 Senator Cardin. Thank you, Mr. Chairman. I also
5 want to add my just congratulations to you, Senator
6 Hatch, for the manner in which this legislation is being
7 considered.

8 It is not just in a bipartisan manner, which is
9 desperately needed here, but you are looking at the
10 individual provisions to see how we can improve them,
11 make them work better, get a better result for the
12 dollars being spent, and that is reflected in the work
13 that the two of you have done and I am proud to be part
14 of that.

15 So thank you very much for your efforts.

16 This bill is critically important to our economy.
17 It offers more certainty. It helps create jobs. Many of
18 the provisions I think are critically important. Let me
19 just highlight the transit benefits; the green energy
20 initiatives; the new market tax credit, and Senator
21 Rockefeller's efforts there; the low income housing tax
22 credits; the 9 and 4 percent minimum rates, Senator
23 Cantwell's work on that is critically important and helps
24 all of our communities; the conservation easements, I
25 know Senator Stabenow has been working on that.

1 These are all very important extenders and
2 improvements of extenders that will help create jobs,
3 help people live healthier lives, and help our economy.

4 I want to mention three issues very briefly that you
5 incorporated into the revised mark and I thank you very
6 much for that.

7 Section 179D, which deals with energy efficiencies
8 in our buildings. Yesterday, I introduced legislation,
9 along with Senators Feinstein and Schatz, to expand that
10 provision to correct some of the interpretations that
11 deal with allocations, and I thank you for including in
12 the mark the improvements on allocations, including for
13 nonprofits.

14 I hope we will be able to do more than that to
15 include partnerships and REITs and deal with the
16 retrofitting of buildings. We do not quite have the
17 scores on those issues yet from Joint Tax, and I hope I
18 can work with the Chairman and the members of this
19 Committee to further expand the ability to offer the
20 appropriate incentives to make our buildings more energy
21 efficient.

22 In Section 181, which deals with our film and
23 theater industry, I want to thank Senator Isakson and I
24 want to thank Senator Schumer for his work on that, and
25 Senator Nelson and Senator Stabenow. We are not only

1 extending that very important provision which deals with
2 competition -- this is a global competition provision
3 that helps the U.S. preserve jobs and create jobs -- but
4 we are also doing this in a way that expands it to
5 theaters, and I appreciate the work that has been done so
6 that this could be incorporated into the mark.

7 And, lastly, let me mention the work opportunity tax
8 credit. I particularly want to thank Senator Portman for
9 his work on this issue to not only get this important
10 bill extended, but, also, to include long-term
11 unemployed. Long-term unemployed are difficult for
12 employers at times to take risks to employ. And using
13 the work opportunity tax credit, which has been very
14 successful, a proven successful program, to help expand
15 opportunity in that direction will help a great deal.

16 I also want to thank Senator Warner for his work on
17 that particular bill. I think that is going to very much
18 help us deal with the unemployment issue, deal with job
19 creation, and I thank the Chairman and Ranking Member for
20 accommodating that in the revised mark.

21 The Chairman. Thank you, Senator Cardin. You have
22 been doing thoughtful work on these issues since your
23 days in the House, working with our next speaker, Senator
24 Portman. So we appreciate it.

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1 OPENING STATEMENT OF HON. ROB PORTMAN, A U.S. SENATOR
2 FROM OHIO

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4 Senator Portman. Thank you, Mr. Chairman. I do
5 appreciate the work on the work opportunity tax credit.
6 I do think this is one way to get those folks who are
7 long-term unemployed -- unfortunately, we are seeing
8 historic levels of long-term unemployment, that is over 6
9 months, in this recession and now in the recovery, and I
10 do think this is one opportunity that we have learned
11 from the private sector will help us to get some of these
12 folks back to work who otherwise, given the resume gap,
13 have a very small chance of going back to work, based on
14 the data over the last several years.

15 So I appreciate the Committee working with us on
16 that, and I thank the Chairman and Ranking Member. I
17 think this has been a good process, because it is
18 transparent. I think the Senate would work better if
19 there was more legislation completed this way. Senator
20 Hatch certainly did so with our side and I know you did
21 with your side.

22 At the same time, I have to say that this is not a
23 process we should go through again, and I like the fact
24 that the Chairman called this the EXPIRE Act. Temporary
25 tax policy is just bad economic policy and it is bad tax

1 policy. And if it is a tax provision that is worthy of
2 being in the tax code, we ought to make it permanent. If
3 it is not, we ought to get rid of it.

4 I understand there is sticker shock associated with
5 making these things permanent, because then it could be
6 about \$750 billion over 10 years, but that is the same
7 thing as \$75 billion 1 year at a time over the next 10
8 years, which is what we have been doing, as the Chairman
9 indicated.

10 So I do think there are real economic costs to the
11 way we are doing this. Businesses that I talk to, for
12 the most part, are making their decisions over a 10- or
13 20-year timeframe and if we tell them, "Gosh, the R&D
14 credit is going to be available this year, but may be
15 gone next year," they are not going to utilize it as they
16 should.

17 Small businesses do not know whether they are going
18 to have an expensing cap of 25,000 bucks or 250,000
19 bucks. So if they cannot depend on these provisions,
20 they are not going to make as many decisions to create
21 jobs as they should, which is the intent of these
22 proposals. So it really negates the purpose of what we
23 are doing.

24 So I do think this is an opportunity for us to move
25 forward with some policy that is necessary to stay in

1 place, but I hope we can now move on tax reform, as the
2 Chairman and Ranking Member talked about, and I am
3 encouraged that both of them are so interested in that.

4 Let us make these things permanent if they are good
5 policy and then let us move on to what we ought to be
6 doing.

7 I do think, as the Chairman said at the outset, that
8 the code is too complicated. I do think that the parade
9 of oracles he kind of laid out about what is going on as
10 we approach April 15 is real for a lot of our
11 constituents. And I do think that we have an opportunity
12 here to come up with policy that will help to get this
13 economy moving.

14 It is one of the few things we can do, I think, that
15 is almost certain to give the economy a shot in the arm.
16 I would say that we must do that with the right data.
17 Therefore, we do need to have macroeconomic analysis of
18 what tax reform means, and some call this dynamic
19 scoring.

20 But I do hope, Mr. Chairman and Ranking Member, that
21 we will work together on this, but, also, take into
22 account what the actual economic growth consequences are
23 of tax policy as we do that.

24 So I look forward to the process today, because I do
25 think it is going to be transparent. We will hear a lot

1 of good debate, and let us continue to focus ourselves on
2 making this EXPIRE Act rather than the Extend Act.

3 Thank you, Mr. Chairman.

4 The Chairman. Thank you, Senator Portman. Thank
5 you for making the point about the jobs opportunities
6 with comprehensive tax reform.

7 In 1986, in the 2 years afterwards, our country
8 created 6.2 million new jobs. Nobody can say every one
9 of them was due to tax reform, but it certainly helped,
10 and thank you for highlighting it.

11 Senator Warner?

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1 OPENING STATEMENT OF HON. MARK R. WARNER, A U.S. SENATOR
2 FROM VIRGINIA

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4 Senator Warner. Thank you, Mr. Chairman. As the
5 newest member of the Committee, I guess I am glad I am
6 going to get at least one tax extender markup under my
7 belt before it --

8 The Chairman. Only one.

9 Senator Warner. Only one, amen to that. And let
10 me echo what Senator Portman said. As I try to dig into
11 all of these provisions, it is really hard to look at
12 them as one-offs without relationship to the balance of
13 what else is in the code.

14 So add my voice to all the others hoping this is the
15 last and a bridge to more total tax reform.

16 I will be very brief. I just want to say, echoing,
17 again, what other colleagues have said, agree with
18 Senator Cardin on the energy efficiency components on
19 179(d); also, on the residential building standards,
20 25(c), that you have worked with us on, appreciate that;
21 a small provision that we put in in terms of mine safety,
22 which would provide an additional credit for advanced
23 mine safety, training and equipment, I appreciate that.

24 I echo what Senator Isakson said about FIRPTA. We
25 need more of that FDI coming into the real estate sector.

1 And what Senator Portman and, again, Senator Cardin has
2 mentioned on the work opportunity tax credit in terms of
3 long-term unemployed, this may not be a full solution
4 set, but as we debate about extension of unemployment
5 benefits, the better policy path is how do we get folks
6 back to work and I think this is at least one small step
7 forward on that.

8 So thank you, Mr. Chairman. I look forward to
9 making this my first and last extenders markup.

10 The Chairman. Thank you, Senator Warner.
11 Senator Grassley?

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1 OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
2 FROM IOWA

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4 Senator Grassley. Obviously, I thank you and
5 Senator Hatch for working so hard to put this together,
6 and I am glad that we are considering a 2-year extension
7 of these provisions instead of the usual 1 year, although
8 last time I guess it was 2 years.

9 I am hopeful that this will provide a window of
10 opportunity, albeit small, to taxpayers while allowing us
11 to continue our work toward tax reform.

12 The annual stop-and-start nature of tax extenders
13 creates uncertainty for taxpayers of all stripes. It
14 often results in complications come filing season, when
15 tax forms are not ready and refunds delayed. It causes
16 headaches for teachers purchasing school supplies,
17 college students paying for higher education, and seniors
18 making charitable deductions from their IRA.

19 It further creates uncertainty for businesses, which
20 harms investment and business growth and, consequently,
21 not getting more people employed.

22 The uncertainty it creates for the renewable
23 industry has slowed growth in this sector. This serves
24 only to hamper the strides made towards a viable, self-
25 sustainable renewable energy and fuels sector. A strong,

1 vibrant renewable energy sector is good for jobs and
2 economic growth. It is also vital for American security
3 to foster the growth of homegrown fuels and energy.

4 The recent takeover of Crimea by Russia is a prime
5 example of why this is so important. We do not want to
6 have our hands tied on energy issues and tying up foreign
7 affairs, as many in Europe have found themselves to do
8 because of their reliance upon foreign sources of energy,
9 in that case, from Russia.

10 Due to both economic and security reasons, I am
11 pleased that the Chairman included the biodiesel credit
12 in his original mark and has accepted my amendment to
13 extend the wind production tax credit to a modified mark.

14 Renewable and alternative energy is not an answer on
15 its own. There are four critical elements to a
16 comprehensive energy policy, obviously: the use of oil
17 and gas, promoting renewable and alternative energy,
18 supporting conservation, and, fourth, nuclear energy.

19 Obviously, the latter is an emission-free resource.
20 I support real, all-of-the-above approach to energy
21 security.

22 The Chairman has expressed his determination that
23 this be the last extenders bill prior to comprehensive
24 tax reform. It is in tax reform where we should consider
25 the relative merits of alternative and renewable

1 incentives, along with all the other energy provisions.

2 Targeting certain energy provisions for elimination
3 now makes little sense for those of us who want to reduce
4 tax rates as much as possible.

5 Tax reform provides an opportunity to use a
6 realistic baseline that will allow the revenue generated
7 from cutting back provisions to be used to pay for
8 reductions in individual and corporate tax rates.

9 So I look forward to working with the Chairman and
10 Ranking Member to enact tax reform and put an end to the
11 headaches and uncertainty created by the exercise we are
12 going through today.

13 Right now, our focus should be on extending current,
14 expired, and expiring provisions to give us room working
15 towards that goal.

16 I thank you very much.

17 The Chairman. Thank you, Senator Grassley.

18 Senator Menendez?

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1 OPENING STATEMENT OF HON. ROBERT MENENDEZ, A U.S. SENATOR
2 FROM NEW JERSEY

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4 Senator Menendez. Thank you, Mr. Chairman. I am
5 going to join Senator Nelson in bestowing gifts upon you,
6 and, hopefully, the Chairman will remember that as we
7 continue the mark.

8 But just briefly, I congratulate you, again, on
9 assuming the chair; secondly, on bringing us to a
10 bipartisan beginning here in this markup; and, for
11 pursuing a 2-year extension, because certainty is one of
12 the elements of unlocking greater economic potential.
13 And while I hope the ultimate certainty is the tax reform
14 that we all seek, at least in the interim, having a 2-
15 year provision makes a lot of sense.

16 I look forward to offering one or two amendments,
17 including with Senator Toomey, to help small business and
18 to have a dialogue with some of my colleagues via an
19 amendment on FIRPTA to set a foundation for what I hope
20 will be a success there in the future.

21 The Chairman. Thank you, Senator Menendez. And I
22 know you are doing important work with respect to our
23 cutting-edge industries and I look forward to working
24 closely with you.

25 Senator Toomey?

1 OPENING STATEMENT OF HON. PATRICK J. TOOMEY, A U.S.
2 SENATOR FROM PENNSYLVANIA

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4 Senator Toomey. Thank you, Mr. Chairman.

5 I, too, want to say, in a body that is not
6 considering nearly as much legislation as it ought to on
7 the floor and where far too many committees are just
8 simply not working, I commend you for a meaningful,
9 substantive, open markup. This is exactly what we should
10 be doing and I commend you for that.

11 I do think it is unfortunate that we are continuing
12 for another -- well, 2 years, in this case, a very flawed
13 policy of a temporary tax code, and I was encouraged by
14 your insistence that this is the last of them. That is
15 very important.

16 I think of the many items in this list of extenders,
17 many of them fall into one of two categories. There are
18 a handful that are unambiguously pro-growth and they
19 encourage the economic activity without discriminating or
20 otherwise distorting economic activity. Those should be
21 made permanent.

22 Then there are a lot that are, frankly, giveaways to
23 favorite industries and while one can always point to a
24 job that is created from a subsidy, on balance, they cost
25 us jobs, because they distort economic activity, they

1 make our economy less efficient, and we have fewer jobs
2 as a result. Those should be done away with.

3 So we will have a discussion and a debate today
4 about it and I appreciate that and I look forward to
5 working with you to have the kind of comprehensive
6 permanent tax reform that we need.

7 Thank you.

8 The Chairman. Thank you, Senator Toomey.

9 Senator Carper is next.

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1 OPENING STATEMENT OF HON. THOMAS R. CARPER, A U.S.
2 SENATOR FROM DELAWARE

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4 Senator Carper. Thanks, Mr. Chairman.

5 Let me just preface my remarks by saying a real
6 special thanks to you and to Senator Hatch for practicing
7 what I call the two Cs. I think that the secret to a
8 long marriage between two people -- communicate and
9 compromise. The secret to a vibrant democracy --
10 communicate and compromise. And I think the two of you
11 are setting a very good example for the rest of us and we
12 are grateful for that.

13 The woman who is the CEO of the DuPont Company,
14 Ellen Kullman, has said to me any number of times that
15 part of what we need to do in terms of providing the
16 nurturing environment for job creation and job
17 preservation, not just for DuPont, but for all kind of
18 businesses, large and small, is certainty and
19 predictability, and we have heard that again and again
20 and again from Democrats and Republicans.

21 I have a friend, when you ask him "How are you
22 doing," he always says, like, "Compared to what?" And
23 how are we doing here with respect to tax policy? Well,
24 compared to what? Compared to not doing anything at all?
25 Compared to maybe a 1-year tax extender or compared to

1 comprehensive tax reform?

2 Well, we are doing better than we might have done,
3 not as good as we want to do and need to do. I yearn for
4 the day when we can actually do the comprehensive tax
5 reform that I know you let on before, both of you have
6 let on before, we hope we will have a chance to do that
7 for real.

8 A couple of amendments I want to -- let me just say
9 thanks to my colleagues who joined me in cosponsoring
10 some amendments that I have offered, several of which are
11 included in the package. Thank you for letting me join
12 you in offering your amendments, too.

13 But I particularly want to just say thanks for
14 including the extension of the wind production and
15 investment tax credits with the commencement of
16 construction language. It is really important if we are
17 going to actually have a successful launch of offshore
18 wind industry in this country.

19 I think we can do better. I filed a couple of
20 energy amendments that I want to work on with the
21 Chairman and the Ranking Member in the future.

22 The first amendment, which I have joined with
23 Senators Brown, Cardin and Menendez, my wingman right
24 here on this side of our aisle, extends the investment
25 tax credit to projects -- this is offshore wind --

1 projects that generate the first 3,000 megawatts of
2 offshore wind in this country.

3 This is similar to legislation I offered in the last
4 Congress with our colleague, Susan Collins. It provides
5 more certainty to an industry that is just beginning to
6 bubble up in this country.

7 My second energy amendment, joined by Senators
8 Cardin and Warner, fixes language from the 2008 extenders
9 package by clearly stating waste heat-to-power technology
10 is eligible -- is eligible -- for investment tax credit.

11 I think transforming wasted heat to power reduces
12 emissions, conserves energy, saves industry money in the
13 long run. It is a win-win-win situation. And due to
14 some technical errors, though, this technology cannot
15 receive investment tax credits, an easy fix, if we can do
16 it.

17 Finally, we also need to reform the R&D tax credits.

18 A bunch of us tried to do that. Senator Portman over
19 there has worked with staff, my staff, and a bunch of you
20 have worked very hard to do that. I think we have a good
21 foundation on which to build. But private investment in
22 R&D is the lifeblood of innovation. We need more of it.

23 Finally, the amendments I have introduced would
24 boost private research spending by increasing the value
25 of the R&D tax credit, by simplifying the credit and by

1 encouraging more collaborative -- one of the three Cs --
2 collaborative R&D projects between different research
3 companies and by incentivizing high value research that
4 is truly revolutionary.

5 All right, Mr. Chairman, that is it for me. Thanks.

6 Good work, good leadership, both of you, and let us, as
7 we say, carpe diem, seize the day.

8 The Chairman. Well said.

9 Senator Crapo?

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1 OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM
2 IDAHO

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4 Senator Crapo. Thank you, Mr. Chairman. First,
5 let me congratulate you, also, on assuming the chair. We
6 have a very good working relationship. We have worked
7 together on a lot of issues and I look forward to doing
8 the same thing as you serve as the Chairman of the
9 Finance Committee.

10 I will be brief, also. I, too, join those who have
11 thanked you for declaring that this is the last extender
12 bill. We truly need to reform our tax code on a
13 comprehensive basis. And I agree, I think it was Senator
14 Isakson who said he has come to the conclusion that doing
15 the big fixes are easier actually than doing the little
16 fixes.

17 I certainly think that is true with regard to tax
18 reform and appreciate the work that you have put into it.

19 If you look at our tax code, it would be hard for us
20 to have intentionally, as a Nation, created a tax code
21 that is more unfair, more complex, more expensive to
22 comply with, and, frankly, more anti-competitive to our
23 own business interests in America than what we have got.
24 And the fact that we are doing an extender bill like this
25 is a prime example of what I am talking about.

1 We have a lot of good thought that has gone into how
2 to reform our code. You are one of those who has put
3 forward a very, very strong proposal. And I just want to
4 say that I look forward to working with you not only on
5 this legislation, which I do agree should be the last
6 extender bill, but on the broader and, I think, much more
7 powerful objective of reforming the tax code.

8 We have got to do it and we have got to get it right
9 and we cannot let that fall in the cracks in the dynamics
10 of gridlock that we often find ourselves in here in the
11 United States Senate.

12 So, again, I agree with you on the need to do this
13 and stand ready to work with you as we move forward.

14 The Chairman. Thank you, Senator Crapo, and
15 especially for conveying the urgency of tax reform.

16 I think Senator Bennet is next.

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1 OPENING STATEMENT OF HON. MICHAEL F. BENNET, A U.S.
2 SENATOR FROM COLORADO

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4 Senator Bennet. Thank you, Mr. Chairman, Ranking
5 Member Hatch. Thank you for holding this very important
6 markup.

7 I want to say, first, that I am very pleased that
8 the modified mark contains a 2-year extension of the wind
9 production tax credit. This is vitally important to
10 Colorado. We have got upwards of 5,000 jobs in our
11 State. Vestas alone, for example, employs over 1,400
12 workers across four factories in my State.

13 We are bringing work from offshore to the United
14 States as a result of this PTC. They have already hired
15 400 new workers just this year, with another 450
16 projected to be added before the end of 2014.

17 The PTC clearly is helping drive not just economic
18 growth, but job growth and wage growth in our State.

19 Beyond the PTC amendment, there are two other energy
20 amendments that I am supporting that are not included in
21 the modified mark. One deals with a different slate of
22 energy technologies, those using the investment tax
23 credit, like solar energy and fuel cells.

24 The other amendment, this is work that I have done
25 with Senator Burr, fixes an inequity in the tax code that

1 disadvantages our own American liquefied natural gas, and
2 I hopeful the Chairman and the Committee members will
3 work with us to address these issues going forward.

4 I am also glad the bill provides a 2-year extension
5 of the other expiring tax provisions, although I join you
6 and Senator Crapo in saying it would be a good thing if
7 this were the last of these extender packagers. It is
8 not the way the American people expect us to do business
9 and I am glad you have said what you said.

10 But this at least provides some degree of certainty
11 while we head, I hope, toward comprehensive tax reform,
12 which is, I think, a huge opportunity for this Committee
13 and for this Congress.

14 I was with one of the leading technology companies
15 in the United States about 10 or 11 months ago to hear
16 what they were doing on education, which is pretty
17 interesting. One of the slides they had showed that 75
18 percent of their last 12 months of revenue was derived
19 from products they did not even sell 5 years ago.

20 That is how fast the future is being invented in the
21 United States, and we ought to have a tax code that
22 reflects the 21st century reality that our private sector
23 is engaged in instead of some remote, historical mid-20th
24 century vision of what the economy ought to look like.

25 As long as that is the case, we can expect to

1 continue to drive jobs overseas rather than have the
2 world invest in the United States. As long as that is
3 the case, I am afraid, Mr. Chairman, we are going to
4 continue to see median family income fall in the United
5 States rather than rise in this country.

6 I think this Committee, Democrats and Republicans
7 working together, have a unique opportunity and a unique
8 responsibility to articulate a set of principles that
9 really are focused toward the future instead of toward
10 the past.

11 I think that is the battle that we are in here. I
12 do not think this is a left-right discussion. And it is
13 not going to be easy. Anybody that has read the history
14 or lived through the history knows it is never going to
15 be easy, but I think it is absolutely worth trying and I
16 think, if we do, we may actually surprise ourselves and
17 succeed.

18 So, Mr. Chairman, thank you for holding the hearing
19 and I look forward to the discussion today.

20 The Chairman. Thank you.

21 Senator Thune?

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1 OPENING STATEMENT OF HON. JOHN THUNE, A U.S. SENATOR FROM
2 SOUTH DAKOTA

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4 Senator Thune. Thank you, Mr. Chairman.

5 I want to start by associating myself with the view
6 that has been expressed by both you and Ranking Member
7 Hatch that short-term tax extensions are not the way we
8 ought to conduct tax policy.

9 The extension of expiring tax provisions we are
10 going to consider today, while necessary, does not give
11 individuals and businesses the certainty that they need
12 to plan nor does it help our economy grow at its full
13 potential.

14 What we need is comprehensive tax reform. And so I
15 am especially pleased that the modified mark that we are
16 considering today includes my amendment, with Senators
17 Portman, Roberts and Burr, expressing the sense of the
18 Committee that comprehensive tax reform should commence
19 next Congress; that tax reform should resolve the issue
20 of tax extenders; that a major focus of tax reform should
21 be economic growth and lowering rates by broadening the
22 tax base; and, that the Chairman and the Ranking Member
23 of this Committee should consult with the Chairman and
24 Ranking Member of the Budget Committee to ensure that an
25 appropriate baseline is used during tax reform.

1 This provision puts the Committee on record for the
2 position that not only is tax reform necessary and
3 urgent, but that we should use tax reform as an
4 opportunity to get rid of tax extenders entirely.

5 If something is good tax policy, then let us -- and
6 it encourages economic growth, then let us make it
7 permanent. If it does not, then let us allow it to
8 expire.

9 And I want to say, Mr. Chairman, as well, that I am
10 pleased that the bill before us today extends for 2 years
11 the deduction for state and local sales taxes. Senator
12 Cantwell and I have filed an amendment to make this
13 treatment permanent to put non-income tax states like
14 ours on a level playing field with the rest of the
15 country.

16 This is the right policy and it is something we
17 intend to continue to pursue.

18 Finally, I am pleased that the legislation today
19 includes a 2-year extension of the wind production tax
20 credit. I have an amendment later that speaks to how we
21 move forward on that issue, but I appreciate your
22 leadership, Mr. Chairman, and that of Ranking Member
23 Hatch, and thank you for working together to make today's
24 markup possible.

25 The Chairman. Thank you, Senator Thune.

1 Senator Casey?
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1 OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S.
2 SENATOR FROM PENNSYLVANIA

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4 Senator Casey. Mr. Chairman, thank you very much.

5 I want to commend the work that you have done to prepare
6 for today, and Ranking Member Hatch, as well, and
7 especially the way that you have taken the time to meet
8 with members to not just prepare for the markup, but to
9 go through a number of our priorities. So we are
10 grateful for that.

11 Just two basic points -- one broad-based point and
12 then two basic points. One is this question of
13 uncertainty arises all the time. I do not care what
14 party you are in or what State you are from. Often, what
15 people say to me is they might have a policy concern that
16 generates uncertainty, but the biggest uncertainty they
17 have is about us, about what will happen here, here
18 meaning in the Congress, and that has driven as much
19 uncertainty as anything.

20 But in terms of the individual uncertainties or
21 concerns that businesses have, especially small
22 businesses, I hear from them on a regular basis about
23 issues that the mark has addressed. And I want to
24 commend the work that has been done, number one, on
25 Section 179, expensing, giving -- making sure that was

1 addressed in the mark is very important so businesses can
2 plan better and invest in capital assets that they might
3 not be able to plan for.

4 Secondly, bonus depreciation, 50 percent bonus
5 depreciation, so that folks, when they are planning --
6 this, I think, applies to large and small businesses. So
7 the cost of a new asset can be deducted and they are
8 especially appreciative of that.

9 Senator Cornyn and I have worked on a provision that
10 involves restaurants and retail establishments. For many
11 years, they had a longer depreciation schedule, which
12 should make a lot of sense, 39 years, and we brought it
13 down to 15, but now it is back into effect, having the
14 longer depreciation schedule.

15 The mark addresses that. It is a very important
16 provision for restaurants and retail establishments.

17 Secondly, and I will conclude with this, just a
18 quick list of priorities that are, I think, priorities
19 for my State of Pennsylvania, but, also, for the Nation,
20 as well. Senator Toomey and I have worked on the orphan
21 drug tax credit, which is very important. It is outside
22 the scope of the mark, but we are going to be addressing
23 that very important issue.

24 The medical device tax repeal, which I know is
25 outside the scope of this mark, but those of us who

1 support that repeal just believe it limits both
2 innovation and job creation. I know there is a great
3 debate about that, but we are looking forward to working
4 with you on addressing that issue.

5 Number three, this is not one that is on everyone's
6 radar screen, but it makes perfect sense for States like
7 Pennsylvania that have locks and dams, waterways that
8 move commerce. The user fee increase for the inland
9 waterways trust fund, which I know we are going to be
10 working on over time.

11 Then two, just very quickly, because I know they are
12 not inside the scope of this, but two major priorities.
13 One is the adoption tax credit. We made it permanent.
14 That was the right thing to do. But we need to make it
15 refundable. That is the second part of the job.

16 Then, finally, Senator Brown will be talking about
17 these issues, but I wanted to highlight them, the child
18 tax credit and the earned income tax credit. In terms of
19 poverty-reducers and benefits to children and families, I
20 am not sure there is anything better we could do.

21 So, Mr. Chairman, thank you. I look forward to
22 working with you on a lot of these issues.

23 The Chairman. Thank you. We are going to have a
24 discussion about a number of them this morning.

25 Senator Schumer?

1 OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S.
2 SENATOR FROM NEW YORK

3

4 Senator Schumer. Thank you. I want to thank you,
5 Mr. Chairman. You are off to a great, fresh start here.

6 I want to thank Ranking Member Hatch, who is also
7 off to a great, fresh start at his young age and for
8 recognizing the importance of this package of tax relief,
9 working so diligently to put together a bipartisan
10 package that I am confident will receive a good vote out
11 of Committee at the end of the process.

12 I have always felt we should not wait until the end
13 of this year to approve this tax package. That sort of
14 locks -- freezes the economy in place. And I went to the
15 floor in December in an effort to get the package moving.

16 Senator Hatch actually came down to the floor as I was
17 speaking and said, "If you want to move the package, work
18 it together in a bipartisan way under regular order in a
19 committee."

20 Voila. That is what we have done under the
21 Chairman's leadership and your leadership, Ranking Member
22 Hatch, but that is why we have the product now that we
23 have.

24 I am pleased we have been able to work together. I
25 look forward to many opportunities like this in the

1 future on transportation reauthorization and
2 infrastructure, disaster relief and a host of other
3 issues important to this Committee.

4 I just want to take a moment, as well, to thank you,
5 Mr. Chairman, and Ranking Member for a few items included
6 in the Chairman's mark important to me, as everyone
7 knows.

8 The commuter tax benefit is critical to the people
9 of New York. A third of all people in Manhattan do not
10 own a car and to us, mass transit is as important to
11 cars, as it is in most cities in the country, and yet you
12 get a greater tax advantage when you take your car to
13 work than when you take mass transit. This restores the
14 equality that we have had until recently.

15 I was also very pleased to see that you included a
16 few other extensions, very important.

17 The new market tax credit program is a proven job-
18 creator, particularly in our older cities that many of us
19 have.

20 The short-line rail tax credit, integral to
21 investments for maintenance and renovation of our short-
22 line rail system. To me, manufacturing companies
23 throughout Upstate depend on these short-lines to get
24 their products to the market.

25 And the IRA rollover, which so many of our retirees

1 count on. All of these provisions and, I believe, the
2 entire package warrant our support and timely action.
3 Business, families and retirees will pay the price if we
4 do not get them extended, and I am proud of the work that
5 has been done on this bipartisan package by almost every
6 member of this Committee and hope we can continue to get
7 this over the finish line on the floor of the Senate, and
8 then, hopefully, the House will follow suit.

9 The Chairman. Thank you, Senator Schumer, and
10 thank you particularly for highlighting the
11 bipartisanship that we are seeing here today.

12 In that spirit, the First Amendment, colleagues,
13 when we get to it, is going to be the Schumer-Roberts
14 amendment, because I think it is particularly important
15 because of what it does to promote innovation.

16 We have a few things to do before that.

17 Senator Brown, you are next.
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1 OPENING STATEMENT OF HON. SHERROD BROWN, A U.S. SENATOR
2 FROM OHIO

3

4 Senator Brown. Thank you, Mr. Chairman.

5 I apologize for being late. I appreciate that I
6 think all of us came to the Senate to do things like we
7 are doing today, and I particularly thank Chairman Wyden
8 and Senator Hatch.

9 I was just downtown speaking to 300 people at a
10 group called the Defined Contribution Institutional
11 Investment Association about what kinds of things we need
12 to do in this Committee and in Banking Committee and
13 throughout the tax code and throughout this Senate on
14 finding ways to make user that people can build wealth.

15 I appreciate the provision of the 40-some in this
16 legislation to extend the Pension Protection Act. I
17 think that is important. I think we will have other
18 things to do as we pursue this very important issue that
19 I know Senator Cardin especially has worked so hard on.

20 A couple of issues I wanted to bring up briefly, Mr.
21 Chairman. January 1, millions of Americans were hit with
22 higher taxes when the Mortgage Forgiveness Tax Relief Act
23 expired.

24 When someone is involved in a short sale, when
25 someone benefits from a principal reduction so they can

1 stay in their homes, because of the expiration of those
2 tax breaks, they are hit with a several thousand dollar
3 tax bill that they simply cannot pay. They are already
4 living on the margins, trying to stay in their homes. We
5 gave them that tax relief in the past. It is very
6 important that we do this.

7 We have all heard stories of individuals in our
8 State that back away from a short sale or run into even
9 more serious problems than that as a result. That is a
10 very important provision in the Chairman's mark. Thank
11 you for that.

12 We also looked at workers who lose their jobs and
13 benefits due to no fault of their own. The health care
14 tax credit expired at the end of last year, leaving tens
15 of thousands of retirees -- I know there are Delphi
16 workers in New York and Michigan and my State, a few even
17 in Georgia, I know, Senator Isakson, will benefit from
18 this.

19 People that go into the PBGC are eligible for the
20 trade adjustment assistance language. This will make
21 sure that they get that tax credit of 70 percent of their
22 health care costs. Senator Portman and I and a number of
23 other will offer an amendment extending the HDTC for 2
24 years, which is fiscally responsible, and we hope toward
25 a permanent solution here.

1 The last issue, Mr. Chairman. In States like mine
2 and really throughout the country, with plant closings,
3 we see what happens to that family, we see what happens
4 to that community, laid-off teachers oftentimes, just
5 more desperate circumstances in neighborhoods.

6 For a community that suffered major job loss when
7 manufacturing plants closed, the manufacturing
8 communities tax credit builds upon the successful new
9 markets tax credit.

10 I think most on this Committee have supported what
11 new markets has done for development in large portions of
12 their State, building on that with the manufacturing
13 community tax credit can make a big, big difference.

14 The last point, Mr. Chairman. I hope that we can,
15 in this Committee, work on expansion of the earned income
16 tax credit. It does exactly what all of us bipartisanly
17 have wanted to do for 20 years, since President Reagan
18 called it the best anti-poverty measure government can do
19 or has done.

20 We need to extend it to childless and low income
21 workers, too. It gives great incentive to work. It
22 helps communities, often low income communities, where a
23 few thousand dollars in earned income tax credit in
24 people's pockets means they spend that in those
25 communities and can make a big difference for rebuilding

1 those communities, particularly in conjunction with the
2 manufacturing community tax credit and all the other
3 things we are trying to do in this Committee.

4 So, Mr. Chairman, I thank you very much for the
5 opportunity.

6 The Chairman. Thank you, Senator Brown.

7 We are now going to turn to the extenders bill, the
8 Expiring Provisions Improvement Reform and Efficiency Act
9 of 2014.

10 I released my mark of the bill earlier this week,
11 along with Senator Hatch.

12 We are now going to walk through my modifications to
13 the mark and answer any questions. After that, we are
14 going to consider amendments to the modified mark. Then
15 we are going to vote on whether to report the modified
16 mark, as amended.

17 If a quorum for a vote is not present, we will vote
18 when we have a quorum.

19 So the Committee has before it the Chairman's mark
20 on the Expiring Provisions Improvement Reform and
21 Efficiency Act, along with my modification to the mark.
22 The mark is so modified and the modification is deemed
23 incorporated into the Chairman's mark.

24 Tom Barthold, from the Joint Committee on Taxation,
25 has graciously agreed to provide a brief description of

1 the modification to the mark.

2 Mr. Barthold, we welcome you and why do you not
3 explain the modification.

4 Mr. Barthold. Thank you, Mr. Chairman and Senator
5 Hatch.

6 The members have before them three Joint Committee
7 documents related to the modified mark. First, there is
8 JCX-26, which explains the underlying mark; JCX-31, which
9 briefly details the modifications, and I will go through
10 that in a moment; and, then the revenue table, JCX-32,
11 which shows the revenue effects of the Chairman's mark as
12 so modified.

13 The Chairman's modification has four provisions
14 which modify underlying provisions in the mark. The
15 first such modification would create a 4 percent floor
16 for the 30 percent present value credit under the low
17 income housing tax credit.

18 The second provision would provide -- would increase
19 the value of the credit, the wage credit provided to
20 employers for employees who are active duty members of
21 the Armed Services, it would increase that credit to 100
22 percent and it would remove the employer size limitation.

23 It also provides modification to the work
24 opportunity tax credit to extend eligibility to long-
25 term unemployed individuals.

1 Then the last modification to the underlying mark is
2 to make a couple of technical changes to the qualified
3 zone academy bonds and to reduce the private business
4 contribution test from 10 percent to 5 percent.

5 The Chairman's modification also makes 11 additions
6 to the mark. The first is it adds the -- it extends for
7 2 years and makes some modifications by way of changing
8 qualifying roofs and updating energy standards for the
9 Section 25(c) credit for residential energy property.

10 It would extend the Section 45 alternative
11 electricity production credit for 2 years. It would
12 extend the motorsports 7-year depreciation recovery
13 period for 2 years. It would extend the increased
14 limitations and increase carry-forward provisions
15 applicable for contributions of conservation property for
16 2 years.

17 It would extend for 2 years and modify Section
18 179(d). This is the provision that allows an enhanced
19 deduction for qualifying energy-efficient commercial
20 building property.

21 It updates the energy standards, and it expands
22 eligibility for this deduction to design persons who
23 design such property for 501(c) entities and tribal
24 governmental entities.

25 The mark extends for 2 years the Section 181

1 election to deduction certain production expenses for
2 televisions and films and makes a modification to expand
3 those rules to include live stage productions.

4 It extends for 2 years the prior law CFC look-
5 through provision relating to dividends, interest and
6 royalties paid up from lower tier foreign entities.

7 And as Senator Thune had noted, the modified mark
8 provides for a sense of the Committee that the Senate
9 should undertake comprehensive tax reform in the next
10 Congress.

11 Then, lastly, the modification provides three
12 additions to the mark which have the effect of raising
13 net revenues. It extends the continuous levy authority
14 granted to the Federal Government to levy up to 100
15 percent of payments to certain Medicare providers who
16 have unpaid tax liabilities.

17 It extends the current law, earned income credit due
18 diligence requirements on tax preparers to have similar
19 requirements for purposes of the child tax credit.

20 And, lastly, it provides an exclusion for certain
21 payments made under the Energy Policy Act of 2005 to non-
22 corporate taxpayers.

23 I hope that was sufficiently quick, but, also,
24 sufficiently clear, Mr. Chairman.

25 The Chairman. You set a land speed record, Mr.

1 Barthold, and we thank you. Well said.

2 Todd Metcalf from my staff is here and Jim Lyons
3 from Senator Hatch's staff is here to answer questions
4 about the modification.

5 An Administration official is here, as well. Mr.
6 Mark Mazur is the acting Assistant Secretary for Tax
7 Policy at Treasury.

8 Mr. Mazur, we welcome you.

9 Do any Senators have any questions regarding the
10 modification that they would like to pose at this time?

11 [No Response.]

12 The Chairman. Hearing none, it is now in order for
13 Senators to offer amendments to the modified mark.

14 We are going to go back and forth, Republican and
15 Democrat, but I thought it was particularly important to
16 start today with a bipartisan amendment. It is a
17 Schumer-Roberts amendment that goes right to the heart of
18 the question of innovation in our country.

19 Let us recognize Senator Schumer and Senator
20 Roberts. Senator Roberts may not be here, but let us
21 start with Senator Schumer to offer the amendment.

22 Senator Schumer. Thank you, Mr. Chairman.

23 Senator Roberts and I would like to offer up our
24 modified Schumer-Roberts Amendment Number 1 regarding a
25 package of improvements to the research and development

1 tax credit.

2 First, I want to thank all my colleagues for joining
3 me in this amendment. We have a good bipartisan group of
4 sponsors -- Senators Roberts and Enzi, on the Republican
5 side; Senators Warner, Stabenow and Cantwell, in addition
6 to myself, on the Democratic side.

7 I want to give particular thanks to Senator Chris
8 Coons. This original bill was introduced by three
9 members of this Committee -- Senators Enzi, Roberts and
10 myself -- but Senator Coons was the leader and originator
11 of this idea and he deserves a lot of credit for getting
12 this done.

13 As pretty much everyone on the Committee knows,
14 there are few tax credits in the code more important to
15 our economy and more specifically to moving the American
16 economy forward than the research and development tax
17 credit. But there is a problem with the R&D credit in
18 its current form. It only benefits companies that owe
19 income tax.

20 That means that only profitable firms can benefit
21 and this leaves out the many, many small startups in all
22 of our States where so much great innovation is occurring
23 in our economy.

24 It is a real missed opportunity, because at these
25 small pre-profit firms, a little incentive goes a long,

1 long way. We all know these small startups. We have met
2 them and a few bucks is really helpful for them to move
3 along.

4 So with minor modifications, the R&D credit can
5 provide a boost to help innovative startups make the leap
6 between thinking big thoughts and creating real jobs, and
7 that is why we are offering this amendment to allow firms
8 with no income tax bill to apply the R&D credit to their
9 payroll tax liability.

10 The new innovation credit would be capped at
11 \$250,000. Again, it is a small incentive from the
12 perspective of the government, but a huge incentive for a
13 high tech startup with a handful of employees.

14 On top of that, we want to make sure those small
15 companies just getting their feet under them, but likely
16 still organized as pass-throughs, being taxed at the
17 individual level, are not left behind either. They maybe
18 barely profitable, but if they are structured as a pass-
19 through and subject to the AMT under current law, they
20 cannot claim that credit.

21 So Senator Roberts brought this additional provision
22 to the table that will ensure the R&D credit can be
23 claimed by this group of taxpayers.

24 I think both of us see these two proposals as very
25 complementary and I think when taken together, the two

1 provide meaningful opportunity for startup firms to get
2 off the ground and running from their infancy, when they
3 will still use the startup innovation credit, to their
4 adolescence, when they may have income tax liability, but
5 not be in a position to claim the credit because of their
6 pass-through business structure.

7 So let me conclude, again, by thanking my
8 colleagues, Senators Coons, Roberts, Warner, Stabenow,
9 Cantwell, and Enzi, just a really great bipartisan group
10 of sponsors and champions for policy changes, as well, of
11 course, as Senator Wyden and Senator Hatch and members of
12 this Committee, for helping us bring this much needed
13 package of improvements to the R&D credit closer to
14 reality.

15 I strongly urge the support of our amendment, and
16 would yield to my colleague from the great State of
17 Kansas, Senator Roberts.

18 Senator Roberts. I thank my colleague.

19 Mr. Chairman, in the interest of time, I did not
20 make an opening statement, but I do have an opening
21 statement that I neglected to ask you permission to
22 insert the opening statement at the time I was
23 recognized.

24 The Chairman. Without objection, it is so ordered.

25 Senator Roberts. Thank you.

1 As usual, Senator Schumer has described this bill in
2 detail. It is pretty simple. One small way to make sure
3 more employees get more hired, more equipment is bought,
4 more built, and more exported.

5 The AMT portion of this amendment is very simple.
6 It replicates provisions that passed the House and Senate
7 on a bipartisan basis in 2010. It will remove one of the
8 biggest barriers for small and medium businesses taking
9 the R&D credit by allowing businesses or business owners
10 to offset R&D costs against the alternative minimum tax,
11 and it would remove the alternative minimum tax bar
12 provided in Section 38(c) to permit the owners of a pass-
13 through entity to reduce taxes below their tentative
14 minimum tax.

15 That is it. It is real simple. A very powerful
16 change for small business and not only small business,
17 but small-small business.

18 So I ask for your support for this pro-economic
19 growth amendment, and I certainly want to thank Senator
20 Enzi, Senator Warner, Senator Stabenow and Senator
21 Cantwell for their outstanding help.

22 Thank you.

23 The Chairman. Are there other colleagues who want
24 to be recognized on this amendment?

25 Senator Warner?

1 Senator Warner. I want to thank Senator Roberts and
2 Senator Schumer. Senator Schumer was giving proper
3 credit for folks who were involved in this. I want to
4 also call out Senator Rubio and Senator Moran, who, along
5 with Senator Coons and I, we did three versions of this,
6 startup 1, startup 2, startup 3.0.

7 I would simply point out, echoing what Senator
8 Toomey said about pro-growth, if you look at all the job
9 creation over the last 25 years in America, literally 85
10 percent of it has all come from startup businesses. And
11 as somebody who still can lay claim that I was an
12 entrepreneur longer than I have been a politician, this
13 will do a great, great deal to help startup businesses,
14 and I urge the adoption of the amendment.

15 The Chairman. Thank you, Senator Warner.

16 Any further debate?

17 Senator Enzi. Mr. Chairman?

18 The Chairman. Senator Enzi?

19 Senator Enzi. I want to thank Senator Roberts for
20 coming up with the inclusion of the alternative minimum
21 tax, which we all have a lot of problems with. That, I
22 think, solves a big problem for this bill.

23 All we are doing here is doing for small business
24 what we have been doing for big business. We were going
25 to extend it for big business, so we ought to include

1 small business in it. It all works the same way.

2 The Chairman. Colleagues, I would only say if we
3 were going to try to devise the ideal way to come out of
4 the gate, we would come up with something that is
5 bipartisan and encourages innovation. That is what this
6 does.

7 I think at this point, I would like to go to the
8 vote.

9 All in favor of the Schumer-Roberts amendment,
10 signify by saying aye.

11 [A Chorus of Ayes.]

12 The Chairman. Any opposed?

13 [No Response.]

14 The Chairman. The ayes have it. The amendment
15 passes.

16 Let us now go to the Enzi amendments. I gather that
17 there is a small package of them.

18 Senator Enzi. Thank you, Mr. Chairman.

19 I do not think these will take a long time, but I
20 have been pushing to -- I would call up Enzi Amendment
21 Number 1, which is for Expiring Provisions Improvement
22 Reform and Efficiency Act.

23 This is to get the tax return due date simplified
24 and modernized. Right now, different kinds of
25 partnerships, corporations, trusts, estates and

1 individuals are required to provide reports to
2 individuals so they can get their taxes done.

3 The dates are all different because we did them over
4 a period of time. This standardizes them so there will
5 have to be less revisions for people's taxes.

6 I know that it is not a traditional extender and it
7 is out of the scope of this markup, so I will withdraw
8 the amendment.

9 The Chairman. Thank you, Senator Enzi. In my
10 view, this proposal does make sense and I am very
11 interested in working with you as we go to comprehensive
12 tax reform.

13 Would you like to continue with yours?

14 Senator Enzi. Yes. I would call up Amendment
15 Number 2, which is to strike the mortgage debt relief
16 provision.

17 We have been doing this for quite a while. It was
18 supposed to be a temporary provision when we put it in,
19 because we recognized that homeowners who were
20 experiencing hardships from housing bubbles to be free
21 from added burden of paying tax on forgiven debt stemming
22 from underwater mortgages, but those were supposed to be
23 temporary.

24 And we have been adding to the national debt by
25 continuing to do this. I think most of the homes that

1 were in that category have been taken care of, but what
2 we have done is change the economics of buying houses,
3 and we should not do that. We should not encourage
4 people to buy more than what they can afford to do.

5 So I would like for homeowners to return to the
6 process of making normal economic decisions related to
7 homeownership and get the fiscal house in order for
8 houses and for the Federal Government.

9 So I hope that the Chairman and Ranking Member will
10 work with me to make this a common sense fix to the tax
11 code.

12 The Chairman. My understanding is my colleague is
13 not seeking a vote on this at this time.

14 Senator Enzi. That is true.

15 Senator Nelson. Mr. Chairman, I just want to say,
16 that might be fine for the State of Wyoming, but if you
17 come from a State where there are a lot of mortgages
18 under water, you have a different perspective.

19 The Chairman. Senator Stabenow?

20 Senator Stabenow. I would join with Senator Nelson
21 and first say that we are talking about people who are
22 not making decisions now, but who got caught up in what
23 was happening in the mortgage crisis and they are still
24 trying to work their way out of this.

25 In Florida right now, 28 percent of the homes are

1 under water; Michigan, 18 percent; Georgia, 18 percent;
2 Wyoming, 6 percent; Utah, 8.4 percent; Oregon, 8.4
3 percent; Ohio, 19 percent. We could go on and on.

4 I think we have got -- I would urge, Mr. Chairman,
5 we just remember, as we look at this, we have a
6 potentially unfair situation if we do not extend this
7 help for homeowners.

8 Right now, the banks that are offering the write-
9 downs get to write that off their taxes. Homeowners, on
10 the other hand, get a tax bill if we do not extend this
11 protection for them.

12 So it makes no sense for 2 million homeowners to get
13 a tax bill when the other side of the equation, on the
14 bank, gets a tax write-off for helping them refinance.

15 The Chairman. I share many of the concerns that
16 you, Senator Stabenow, and Senator Nelson have expressed,
17 because as many as 28,000 homeowners from my State could
18 face huge unexpected tax bills.

19 Senator Enzi has agreed to withdraw it and I thank
20 him for that.

21 Senator Brown?

22 Senator Brown. I want to join with your comments,
23 Mr. Chairman, and Senators Nelson and Stabenow. Senator
24 Stabenow pointed out the high percentage still of homes
25 underwater in Ohio.

1 I have talked to people that are involved in short
2 sales and it is already problematic enough on short sale
3 with the delay of the financing side. We have fixed
4 that, in many cases, in part, from discussions with
5 banks, at least in my State, but we do not want to
6 discourage really the whole real estate industry when
7 sales end up stopping in their tracks because of that
8 potential tax bill that people face.

9 We grow this economy -- we know that we grow
10 economies by manufacturing and by real estate and what
11 happens in the housing market and this. And I do not
12 disagree with Senator Enzi that at some point we take
13 this away and likely, but it still really is slowing
14 housing growth in our communities.

15 The Chairman. Senator Enzi has graciously agreed
16 to withdraw, so let us go to Enzi 3.

17 Senator Enzi. I am going to ask to hold Amendment
18 Number 3 and see if Senator Thune offers something that
19 is related to it. If he does, I would come back to that.
20 I did modify it. It is not even close to what the one
21 you have says.

22 I would offer Amendment Number 4, which modifies
23 Section 48 of the tax code by creating a 30 percent tax
24 credit for super-critical coal facilities. If we are
25 going to incentivize types of energy, we cannot ignore

1 the most abundant, affordable energy source, which is
2 coal, and if they can build a super-critical clean coal
3 facility, they ought to be able to take some of the same
4 tax advantages that the others have.

5 I do realize this is not a traditional extender, so
6 I am going to withdraw the amendment and not require a
7 vote.

8 The Chairman. Thank you, Senator Enzi.

9 Let us go now to the Cantwell-Bennet proposal.

10 Senator Cantwell. Thank you, Mr. Chairman. I
11 would like to call up, I think it is Cantwell Amendment
12 Number 3, sponsored by myself and my colleagues, Senator
13 Bennet, Senator Menendez, Senator Brown, Senator Carper,
14 Senator Stabenow, and Senator Nelson.

15 Today we are here to talk about important tax
16 provisions that help create jobs and help create
17 investment in our economy, and we are here to provide
18 predictability and certainty to businesses.

19 So I think it is absolutely essential that we figure
20 out market-friendly, cost-effective ways to transition to
21 cleaner, more diversified distributed energy and solar
22 projects, like many infrastructure-intensive projects
23 require significant lead time in order to produce
24 financing, get permits, hire workers, and ultimately
25 become operational.

1 To get there, the private sector needs certainty and
2 the blueprint to unleash the innovation, and we are
3 seeing a lot of innovation in clean energy.

4 In fact, in 2007, global investment in clean energy
5 topped \$100 billion, with solar leading the way. So
6 those important investments continue to need the credits
7 to play an important role in market efficiencies.

8 I believe that we need to focus on developing new
9 ideas, investing in cutting-edge technologies, and
10 establish the leadership here in the United States in
11 clean energy technology.

12 To continue to do this, we need to continue to
13 innovate. In 2012, a national report showed that China
14 advanced to become the world leader in clean energy
15 investment, attracting \$65 billion, and the United
16 States, on the other hand, saw a decline of 37 percent in
17 this clean energy investment.

18 At least 83 countries, 41 developed or transitioned
19 countries, have policies to promote generation from new
20 and renewable technologies, and these global market
21 opportunities are opportunities for U.S. products. So
22 this is not just about the United States producing new
23 solar generation here that helps power lower cost of
24 energy.

25 It is about whether we are going to win in the

1 global marketplace with U.S. technologies. If the U.S.
2 hopes to remain globally competitive in the clean energy
3 sector, we must invest more, not withdraw investment.

4 So that is why I have worked with my colleagues,
5 particularly Senator Bennet, on a policy to help us move
6 forward. We drafted an amendment that I believe is
7 germane to the bill today and would help us with new
8 construction in several States that would increase
9 generation, I think, to cover something like 600,000 new
10 homes and a total of 270,000 new megawatts of generation.

11 So we certainly think this is an important issue to
12 consider.

13 I would like to turn to my colleague, Senator
14 Bennet, for his comments.

15 Senator Bennet. Thank you, Senator Cantwell. And
16 thank you, Mr. Chairman.

17 I will be brief. I have an amendment that is very
18 similar to Senator Cantwell's. It is Bennet Amendment
19 Number 1.

20 It is a bill that is a bipartisan bill. Senator
21 Heller is my cosponsors and it has been cosponsored by
22 Senators Brown, Menendez, Carper, Stabenow, Cardin and
23 Nelson.

24 Essentially, what our amendment would do would be to
25 allow developers who qualify for the Section 48

1 investment tax credit to claim the credit provided they
2 have commenced construction on their projects before the
3 credit's expiration.

4 Currently, a project must be placed in service in
5 order to claim the credit. In our view, the placed in
6 service requirement makes it difficult to complete
7 projects that often take several years to finance,
8 permit, and construct.

9 For all the reasons that Senator Cantwell has said,
10 this is vital to our competitiveness. It is vital to our
11 building America's energy future.

12 I gather that this amendment will be ruled not
13 germane. So I will not offer it, but I would ask you,
14 Mr. Chairman, to work with Senator Cantwell and myself
15 and Senator Heller and other as we bring these pieces of
16 legislation together and ultimately, hopefully, include
17 it in our work.

18 The Chairman. I want to thank you both because
19 both of you have been some of the most forceful advocates
20 particularly of solar power in public life, and I am
21 going to work very, very closely with both of you.

22 As you know, in my State, in Oregon, green energy is
23 practically in our chromosomes. So I feel very strongly
24 that we turn this around, that we get this fixed, and
25 particularly, for the two of you, as part of

1 comprehensive tax reform, we have got to get as close to
2 parity for all energy sources as possible, because we
3 cannot have an effective energy policy in this country if
4 some energy sources have subsidies at this level and
5 others have subsidies much reduced.

6 So I am going to work very closely with both of you.

7 I want to thank both of you for your work, and I know
8 that this is not germane today, but I want you both to
9 know this is not the last word on this subject. We are
10 going to get this addressed.

11 Senator Cantwell. I thank the Chairman for his
12 comments and I know that germaneness is in the eye of the
13 beholder. So we will look for another beholder maybe in
14 a later process on the floor.

15 The Chairman. Good. Do other colleagues want to
16 be recognized on this particular issue, the Cantwell-
17 Bennet solar issue?

18 Senator Hatch?

19 Senator Hatch. Let me just say that I am
20 interested in what you are doing and I appreciate the way
21 you are handling it, too. So we will just keep trying to
22 work together.

23 The Chairman. All right. The Cantwell-Bennet
24 amendment then is withdrawn.

25 I think Senator Isakson was seeking a chance to

1 speak, as I understand it, on the mortgage issue that was
2 part of Senator Enzi's proposal.

3 If that is the case, I would like to recognize the
4 Senator from Georgia.

5 Senator Isakson. I thank the Chairman. I will
6 enter it for the record, because I am getting ready to
7 speak on the Menendez proposal next. So I will combine
8 both at the same time.

9 The Chairman. Very good. With the Cantwell-Bennet
10 amendment withdrawn and a pledge to work very closely
11 with them as we go forward, let us go to now the
12 Menendez-Enzi real estate amendment and their discussion.

13 Senator Menendez. Thank you, Mr. Chairman. So let
14 me call up Menendez-Enzi-Isakson and others Amendment
15 Number 4. And we understand the limitations of today's
16 markup, so I, obviously, am not going to ask for a vote.
17 But a few of us would like to speak on the merits of
18 reforming FIRPTA today, with an eye towards getting this
19 done sometime this year.

20 Let me also ask unanimous consent to add Senators
21 Roberts, Nelson and Crapo as cosponsors.

22 The Chairman. Without objection, so ordered.

23 Senator Menendez. Mr. Chairman, this amendment,
24 the foundation of this amendment is S.1181, which has
25 broad bipartisan support. It has 39 cosponsors, 20 of

1 the 24 members of this Committee, just to speak to how
2 powerful we believe the change that we seek would unlock
3 economic potential in the country.

4 Our amendment would implement efficient and
5 meaningful reform of FIRPTA tax rules to encourage more
6 equity investment in U.S. real estate. And we believe
7 that by increasing investment in commercial real estate,
8 reform will jumpstart construction, real estate
9 modernization projects, generate a need to build up
10 surrounding infrastructure, and the ripple effect of this
11 is enormous.

12 There is no significant job creation proposal that I
13 know of in this Congress that really has stronger
14 bipartisan support. Even the President last year listed
15 FIRPTA reform as one of those items that was an
16 opportunity to create jobs in our economy, and I would
17 echo what he called for at the time, which is why are we
18 waiting, why are we waiting.

19 There is broad agreement that FIRPTA, as currently
20 drafted, discourages foreign investment and agreement
21 that reforming these laws will create jobs and
22 investment.

23 So this is a legislative opportunity we should take
24 action on. And I do not know why we -- we have tried
25 with the Treasury Department various times to have them

1 look at the IRS determination that is a big part of this
2 challenge, and we believe that there is not a reason to
3 wait.

4 But in the interim, the strong bipartisan support
5 for this legislation unlocks an enormous amount of
6 potential.

7 And the final note I will make, we have a lot of
8 commercial real estate in the country whose financing is
9 coming due. It is a tremendous opportunity to meet the
10 challenge of that financing in a private sector way and
11 further solidify the commercial market.

12 So with that, I would be pleased to yield to my
13 colleague, Senator Enzi, who is my fine cosponsor on
14 this.

15 The Chairman. Let us go with Senator Enzi. I
16 think Senator Isakson wanted to speak on this, as well.
17 There may be other colleagues.

18 Senator Enzi?

19 Senator Enzi. I would just say that there is \$2
20 trillion in commercial real estate loans that are about
21 to mature and many of those loans are now under water and
22 it is going to require more equity refinance. So failure
23 to act will hurt communities all over the country, every
24 region of the country, and I think we can agree that that
25 is the last thing that this economy needs, and I think

1 this will attract some additional business.

2 I would yield to Senator Isakson.

3 Senator Isakson. Mr. Chairman, this is very
4 important. As I said in my opening remarks, the 1986 Tax
5 Act took away the ability to take passive loss against
6 earned income and limited it to \$3,000 a year. It tanked
7 almost every commercial development in the United States
8 of America from a positive to a negative worth, which
9 created the real estate investment trust so that the real
10 estate people could go to Wall Street, sell shares to
11 raise equity and reduce their debt.

12 The FIRPTA limitation at 5 percent was because of a
13 fear 25 or 30 years ago that Japan was going to buy all
14 the commercial real estate in America. Well, Japan went
15 belly-up on doing that and has not been a threat since.

16 This would be a great increase and a great infusion,
17 and the CMBS market on Wall Street has shrunk
18 tremendously, which limits the amount of money available
19 to refinance these \$2 trillion in loans.

20 This would attract good equity into United States
21 real estate markets and only a minority participation in
22 ownership in the REITs. It would be very important for
23 our economy and its expansion.

24 The Chairman. Senator Schumer and then Senator
25 Portman.

1 Senator Schumer. I just want to echo what has been
2 said by my colleagues. This is a really important
3 amendment that could help jobs and growth.

4 We are looking for ways to grow the economy. We
5 have not had enough construction jobs. Most previous
6 recessions, we got out with 60 percent construction jobs.

7 This is only 15.

8 Part of the reason is we are not building enough.
9 Some of that is because we are not doing enough on
10 highways and roads and bridges, but some of it is because
11 of all these kinds of constraints on real investment for
12 growth, and this is one that would make a huge
13 difference.

14 It affects New York City dramatically, and,
15 obviously, Senator Menendez and I worked on refining this
16 over the years to deal with some of the objections, and
17 it affects Upstate New York, as well, smaller struggling
18 cities.

19 So I hope we can get this done. I have a few ideas
20 for PAYFORs for at least some of it, and I would like to
21 continue to work on it.

22 The Chairman. Thank you.

23 Senator Portman?

24 Senator Portman. Just quickly, Mr. Chairman.

25 I would like to be added as a cosponsor, Senator

1 Menendez, if I could, and appreciate the amendment.

2 As Senator Schumer said, construction jobs are one
3 of the problems in our economy today. The unemployment
4 rate remains almost twice that of the overall
5 unemployment rate, and this is a situation where it is
6 going somewhere else. This is foreign investment that is
7 going to other countries and a lot of it is sovereign
8 wealth funds, frankly.

9 So this would be a way not only to get some foreign
10 investment in this country, but actually to help a
11 specific sector of our economy that is still struggling.

12 The Chairman. Senator Cantwell?

13 Senator Cantwell. Mr. Chairman, I, too, want to
14 thank Senator Menendez for his leadership on this issue
15 and say that I hope with all this bipartisan support here
16 in the Committee, we could work something out on the
17 floor for this.

18 The Chairman. And I only want to say to my
19 colleague, and give Senator Menendez the last word, I am
20 strongly interested in this issue, because it is a big
21 economic multiplier for the United States.

22 In other words, these are the kinds of construction
23 jobs that ripple all the way through communities. So you
24 have my pledge to keep working with you.

25 Colleagues, please know that this has been sort of a

1 painful drill, because a number of you have very good
2 ideas, ideas that I like, certainly, the solar energy,
3 but we said that there were going to be rules on
4 germaneness and I very much appreciate your
5 thoughtfulness in sticking to that spirit.

6 Would you like to say something? Then we will wrap
7 up with Senator Menendez.

8 Senator Hatch. I would just like to say if we can
9 do FIRPTA right -- and I want to compliment the Senators
10 who are both sponsoring and cosponsoring this -- it can
11 mean more investment in improvements in infrastructure
12 and to the extent capital can flow to the U.S. markets to
13 create new and better buildings and infrastructure, we
14 ought to all work to do that.

15 So I commend all of you folks for the hard work you
16 are doing on this and let us see what we can do to help.

17 The Chairman. Senator Menendez, last word for you.

18 I understand you are going to withdraw it and I want you
19 to know I am going to be working with you.

20 Senator Menendez. Thank you, Mr. Chairman.

21 I appreciate all of my colleagues who have joined
22 with us and commented on it. This is just one of those
23 opportunities, with very broad bipartisan support, to
24 create an economic driver that creates jobs and also
25 meets some of our fiscal concerns in the future as it

1 relates to the commercial mortgage market.

2 So at this point, I will withdraw the amendment and
3 look forward to the opportunity.

4 The Chairman. Thank you.

5 Let me say the next proposal will be Senator
6 Stabenow's, and I also want to -- because we are moving
7 quickly now, our second group will be Senator Burr and
8 Senator Bennet, Senator Nelson, Senator Thune, and
9 Senator Roberts, Senator Brown and Toomey.

10 Senator Stabenow?

11 Senator Stabenow. Thank you, Mr. Chairman.

12 First, before talking about the Amendment Number 2
13 that I have offered with Senators Brown and Roberts, I do
14 want to make sure we are clear on underlying language in
15 the bill dealing with AMT credits in lieu of bonus
16 depreciation.

17 Through you, Mr. Chairman, if I could ask Dr.
18 Barthold a question just to make clear that we did the
19 language correctly; that the limits that we have put on
20 AMT credits being used of up to \$30 million or 6 percent
21 of AMT credits is an annual limit. So each year, that
22 limit would apply. It is not a combined limit over 2
23 years. Is that correct?

24 Mr. Barthold. That is correct, Senator Stabenow.
25 It is annual, 6 percent, \$30 million each year.

1 Senator Stabenow. Great. Thank you very much.

2 Mr. Chairman, this is an amendment that would modify
3 that provision. We know that in terms of investment,
4 bonus depreciation is very important. It is a powerful
5 incentive for business investment, being able to invest
6 as we have tough economic times, but some businesses
7 cannot benefit from bonus depreciation.

8 So what we have in the underlying bill is to allow a
9 small amount of alternative minimum tax credits to be
10 used so that they can access capital to invest and create
11 jobs and grow the economy.

12 Our amendment would lift that cap so that businesses
13 would, in any 1 year, be able to have more investments,
14 more immediate investments to create jobs.

15 I will indicate this is a bipartisan amendment,
16 again, with an underlying bill of Senator Brown, Senator
17 Blunt, Senator Roberts and myself.

18 Rather than ask for a vote now, Mr. Chairman, I
19 would like very much to have your commitment to work
20 together to make sure that those businesses, again, that
21 cannot fully benefit from bonus depreciation, but have
22 paid in, have credits just sitting there, can turn those
23 credits around to invest in the economy and create jobs.

24 The Chairman. We will work together on it and I
25 very much appreciate your not offering it today.

1 All right. Let us go to --

2 Senator Stabenow. And if I might, Mr. Chairman.

3 The Chairman. Please.

4 Senator Stabenow. There is one other item that was
5 on the list here that I just want to mention that I know
6 is not germane under the rules of the Committee, but I
7 did want, also, to mention -- I believe it was on the
8 list -- that Senator Bennet and I have offered, Senator
9 Thune has a similar amendment.

10 It is based on bipartisan legislation introduced by
11 Senators Moran and Heitkamp to clarify that the general
12 welfare benefits provided by tribal governments are not
13 considered taxable income by the IRS. There is a
14 longstanding principle of tax law that general welfare
15 benefits provided by governments to their citizens are
16 not taxed as income, things like education and health
17 services and housing.

18 In recent years, the IRS has applied this principle
19 inconsistently as it relates to tribal governments and
20 they have improved things with the guidance back in
21 September of 2012, but what we want to do is codify the
22 IRS guidance into the law.

23 There is no cost. I am hopeful, as we move forward
24 in the process on the floor, that we could clarify this
25 guidance and hopefully make it clear that the important

1 work being done by tribes is not taxed.

2 Thank you.

3 The Chairman. You and Senator Heitkamp have made a
4 strong case on this. I think colleagues know that this
5 is not germane. So we are going to follow-up with you,
6 and appreciate it.

7 Senator Stabenow. Thank you.

8 The Chairman. Let us go to the next group, Senator
9 Burr and Senator Bennet.

10 Senator Burr. Mr. Chairman, thank you. I would
11 call up Burr Amendment Number 1. This is an effort to
12 highlight for my colleagues the need for parity in our
13 tax code.

14 Liquefied natural gas competes directly with diesel
15 fuel as a transportation fuel for heavy-duty trucks. The
16 Federal excise tax on both diesel and LNG is set at 24.3
17 cents per gallon. Yet, LNG has a lower energy content
18 per actual gallon than diesel fuel. Therefore, on an
19 energy equivalent basis, the excise tax on LNG is
20 effectively 170 percent of that on diesel.

21 Now, during a time where we have over 100-year
22 supply of natural gas right here and wells that are
23 having to close because they cannot get rid of it fast
24 enough, do we really want to discourage folks from making
25 the switch to a cleaner and cheaper domestic product?

1 My amendment is very simple. It aims to fix this by
2 ensuring parity in the tax treatment of LNG and diesel.
3 The bill that Senator Bennet and I have introduced, which
4 is the basis of this amendment, would tax LNG on its
5 energy content in accordance with that of a diesel
6 gallon.

7 Furthermore, this amendment modifies the alternative
8 fuel tax credit in the same way, and I am told by the
9 Joint Tax Committee it actually saves \$10 million.

10 Now, Mr. Chairman, I understand that this might be a
11 topic more suited for discussion with the highway trust
12 fund. So given that, given that I have your support that
13 the Committee's intent is to, in fact, take up the
14 highway trust fund and if I have the Chairman's and
15 Ranking Member's commitment to work with those of us who
16 want to try to achieve this parity, I would be willing to
17 withdraw this and hold it until we do it in the context
18 of maybe the perfect piece of legislation.

19 But I do that with all hope that my colleagues
20 recognize the lack of equity here and parity in our tax
21 code, and that this is a wise move for us to make if, in
22 fact, we want to move more and more vehicles to liquefied
23 natural gas usage and away from diesel.

24 The Chairman. Let us let Senator Hatch go, see if
25 Senator Bennet wants to comment, and then I will wrap it

1 up.

2 Senator Hatch. Mr. Chairman, this seems like a no-
3 brainer. It takes 1.7 gallons of LNG to equal 1 gallon
4 of diesel. Yet, we impose the same amount of tax of 24.3
5 cents per gallon.

6 Now, this imparity is something we can fix both in
7 the alternative fuel excise tax credit and the excise
8 tax, and, like the distinguished Senator mentioned, has a
9 positive \$10 million gain in doing so.

10 So we are committed to dealing with this issue when
11 we debate the highway trust fund, which we have to do in
12 just a few months. So I will be there helping the
13 Senator from North Carolina and others to accomplish
14 this.

15 The Chairman. You all are being too logical for
16 Federal policy. I am very interested in working with
17 both of you.

18 Senator Bennet?

19 Senator Bennet. Thanks, Mr. Chairman. I will be
20 brief.

21 I want to thank Senator Burr very much for his
22 leadership. As he mentioned, the amendment that he
23 offered today and withdrew is based on a piece of
24 legislation that he and I have been working on together
25 for a long time.

1 It is true, the reason I got interested in this is
2 that natural gas is a critical part of Colorado's economy
3 and we ought to be looking for new markets to incentivize
4 the use of this cleaner, domestically-produced fuel, and
5 that is what this amendment does.

6 As I have worked on this, I have realized how unjust
7 and self-defeating the current tax code is on this for
8 all the reasons that Senator Burr talked about.

9 As he mentioned, the tax code discourages the use of
10 our own domestically-produced LNG as a vehicle fuel
11 because its Federal excise tax is 170 percent higher per
12 mile than diesel.

13 I know that people at home in Colorado and all
14 across this country would rather we were consuming our
15 own domestically-produced energy, whether it is solar or
16 wind or natural gas, than refined petroleum from the
17 Middle East or other places, and this would help us along
18 those lines.

19 So I look forward to working with my colleagues,
20 especially Senator Burr and the Chairman and the Ranking
21 Member, as we get into the highway trust fund discussion
22 to see whether we can fix this inequity and actually be
23 able to give a shot in the arm to an American-produced
24 fuel, in this case, LNG.

25 Thank you, Mr. Chairman.

1 The Chairman. Senator Burr, thank you. And I plan
2 to work very closely with you and Senator Bennet on this
3 on the highway trust fund bill, which, of course, is also
4 coming up very quickly.

5 You and I served together on the Energy Committee
6 and we always said let us try to get to a level playing
7 field, and that is what you and Senator Hatch have talked
8 about, and then to have comparable measures.

9 So I am going to work very closely with you and I
10 appreciate your not offering it today.

11 Senator Nelson is next.

12 Senator Nelson. For Nelson 1, and the only one,
13 because of the excellent work and leadership of Messrs.
14 Hatch and Wyden. And if you are from Pennsylvania, Utah,
15 West Virginia, you are underrepresented, as we are in
16 Florida, on the new markets tax credit.

17 For example, it serves the poor population,
18 encouraging investment in low income areas. An example,
19 in my State, we have 6.3 percent of the poverty resides
20 in Florida in the country, and yet our new markets tax
21 credit share is only 2 percent. Those other States are
22 similar that I mentioned.

23 So what it does, this tax credit, is incentivize the
24 investment of commercial projects to create jobs in low
25 income areas. And since the program was established back

1 in 2000, \$36 billion has been invested in eligible
2 communities, and it needs that little tweak to get to the
3 poverty.

4 So I want to work with you, Mr. Chairman, Senator
5 Hatch, on tweaking it.

6 Thank you.

7 The Chairman. Thank you, Senator Nelson. We have
8 had excellent success with the new markets tax credit at
9 home and I want to work with you.

10 Are there other colleagues who want to talk about
11 the new markets tax credit?

12 [No Response.]

13 The Chairman. All right. Senator Nelson is not
14 asking for a vote today.

15 That takes us to Senator Thune and Senator Roberts
16 to discuss a subject that they know there is a lot of
17 interest in, and that is the permanent internet tax
18 freedom bill.

19 Senator Thune. Mr. Chairman, I would like to call
20 up Thune Amendment Number 3, which is Committee Amendment
21 Number 76.

22 Just to speak to this issue, the amendment would
23 incorporate into the bill before us the Internet Tax
24 Freedom Forever Act, which is legislation that is
25 sponsored by you, Mr. Chairman, me, and 35 other

1 Senators, including Senators Roberts, Burr, Isakson, and
2 Grassley on this Committee.

3 Essentially, what it would do is make permanent the
4 existing moratorium on state and local taxes on internet
5 access, as well as multiple and discriminatory taxes on
6 internet commerce.

7 I do not intend to ask for a vote on this, but I am
8 raising it because I believe it is a critically important
9 issue and an issue that we need to address very soon.
10 And the reason for that is that the existing tax
11 moratorium, known as the Internet Tax Freedom Act, or
12 ITFA, is due to expire in 7 months, on November 1 of this
13 year.

14 First enacted in 1998, this moratorium has been
15 extended three times, with broad bipartisan support, most
16 recently in 2007, when it was extended for 7 years.

17 Keeping consumer access to the internet free from
18 taxation promotes use of the internet as a critical
19 gateway to jobs, education, health care, and
20 entrepreneurial opportunities. And as Ranking Member of
21 the Commerce Committee, one of my top priorities, along
22 with the Senator from West Virginia, is expanding high-
23 speed internet access to rural America, a goal that will
24 be impeded if ITFA expires and consumers are burdened
25 with new taxes on their internet service.

1 So because this has been such a longstanding policy,
2 if it expires, the vast majority of Americans with
3 internet service would likely to see new taxes imposed on
4 their internet access for the very first time. That is
5 because there are States with laws in place which, if the
6 Federal moratorium would expire, some of those taxes
7 would kick in.

8 So that is why I think we need to move on this
9 extension as soon as possible. Consumers are likely to
10 begin to hear about the possibility of their internet
11 access becoming subject to tax in late summer, and that
12 is why I think we need to take action before the August
13 recess to provide certainty both to providers, as well as
14 to consumers.

15 And I think there are other what I would call
16 consumer-friendly legislation bills that we need to
17 advance, as well, one being the Digital Goods and
18 Services Tax Fairness Act that you and I, Mr. Chairman,
19 have introduced, which would set the rules for taxing
20 digital downloads and digital services.

21 As you know, that is also a piece of legislation
22 that has been referred to this Committee.

23 So I want to work with you, with our colleagues here
24 on the Committee to make ITFA permanent as soon as
25 possible, and I want to raise that issue here, as I said,

1 knowing full well it perhaps will not be included in this
2 particular piece of legislation.

3 I know my colleague from Wyoming, who wants to talk
4 about the Marketplace Fairness Act, that is something
5 that I also support. That is something that came out of
6 the Senate a while back that my State has been working on
7 for several years.

8 Bu the thing I would point out about this particular
9 item is that it has got a sense of urgency about it,
10 because this does expire in November.

11 Thank you.

12 The Chairman. Let us finish up with the Internet
13 Tax Freedom Act, because I know later we are going to
14 talk about the Marketplace Fairness Act, and I am happy
15 to do that.

16 Did you want to talk about that now, Senator Enzi?

17 Senator Enzi. Well, Mr. Chairman, I just modified
18 that Amendment Number 3 so that I could address it at
19 this point, just to point out that this bill does not
20 affect marketplace fairness. This is just to make sure
21 that people cannot tax the internet. And marketplace
22 fairness does not tax the internet. It is just a States'
23 rights bill so that products that are sold in other
24 States can collect the sales tax on it and it is up to
25 the States to do that.

1 I just wanted to make that clarification so people
2 would not be confused, because I do not think the
3 internet ought to be taxed.

4 So I appreciate the work that they have done, but I
5 do not want people to think that this would preclude
6 marketplace fairness.

7 Seventeen people on this Committee voted for
8 marketplace fairness, both sides of the aisle, and it is
9 critical to a lot of the States out there. And so I
10 wanted to make sure that it was not being precluded, but
11 I did not intend to make it a part of this.

12 That is all I needed.

13 The Chairman. I thank my colleague for his
14 thoughtfulness. He and I know that this is a topic that
15 generates a lot of spirited discussion, and we are going
16 to have it in the days ahead.

17 So let us have Senator Roberts and Senator Hatch on
18 the Internet Tax Freedom Act.

19 Senator Roberts, did you want to comment on this? I
20 thought it was a Thune-Roberts amendment.

21 Senator Roberts. I thought that Senator Thune put
22 it very well. I do not think that I have to add
23 anything.

24 The Chairman. Perfect. Even better.

25 Senator Hatch?

1 Senator Hatch. Well, I will be very short, too. I
2 want to commend both Senators Thune and Roberts on their
3 amendment to preserve the tax moratorium on internet
4 access.

5 If no action is taken, come November 1, many
6 Americans face the prospect of automatic tax increases on
7 internet access. I think the internet is critical to our
8 national economy and internet access, of course, is vital
9 to ensure that Americans can participate in the national
10 and global economies.

11 So I want to compliment them for the work that they
12 are doing and I really appreciate it.

13 The Chairman. Senator Thune, thank you. And I
14 have the awkward challenge of essentially saying that
15 something that I was the original author of back in 1998,
16 with our former colleague Chris Cox, is not germane.

17 So with respect to the substance of this matter, you
18 had me at hello and we will continue these discussions.
19 And Senator Hatch is right, this would face an expiration
20 date. So this is something that we all feel very
21 strongly about.

22 After that original authorization, we all worked
23 together to get it reauthorized three times. We are
24 going to get it done again, and I thank you for that.

25 Senator Brown is next with Brown 7, manufacturing

1 communities tax credit.

2 Senator Brown. Thank you, Mr. Chairman. I would
3 call up Amendment Number 7 for a vote, Mr. Chairman.

4 This amendment seeks to provide support for new
5 manufacturing investment hard hit communities. WE all
6 know the numbers. From 2000 to 2010, we lost some 5
7 million manufacturing jobs. We have seen some 600,000,
8 maybe a bit more than that, come back in the 4 years
9 since.

10 This legislation -- this amendment will help to
11 refine the new market tax credit. It will make it
12 simpler in the sense that oftentimes it is fairly
13 expensive for someone eligible in those census tracts for
14 the new market tax credit to find a way to go through the
15 process and do manufacturing.

16 I hear all the time, as I know Senator Portman does,
17 from groups like the Dayton Development Coalition and
18 Columbus Partnership and others that business wants to
19 invest in communities. They are not sure they can do it
20 through new market tax credit in these census tracts, but
21 that would get them there if they had just a little more
22 help.

23 So I ask for support of the amendment, Mr. Chairman.

24 The Chairman. Are there other colleagues who would
25 like to be recognized?

1 Senator Portman?

2 Senator Portman. I would encourage my colleagues
3 to support it. This is not a new expense, because
4 Senator Brown's amendment actually is paid for by a claw-
5 back from the new markets tax credit allocations that are
6 not used, which, as I recall, is about 1 percent to 3
7 percent of the allocation.

8 So it is a relatively small amount. It is more
9 targeted to areas where help is needed, and it goes
10 through the same Treasury agency. So it is not creating
11 a new bureaucracy. And it goes to the same community
12 development entities that have to be qualified under a
13 new markets tax credit.

14 So I think this is a good amendment and I would
15 encourage my colleagues to support it.

16 The Chairman. I strongly support the Ohioans.
17 Senator Stabenow?

18 Senator Stabenow. Mr. Chairman, I would just like
19 to ask that my name be added as a cosponsor.

20 The Chairman. Without objection, so ordered.

21 Senator Stabenow. And indicate my strong support.

22 The Chairman. Senator Cantwell?

23 Senator Cantwell. Mr. Chairman, I, too, support
24 the amendment. I also support the offset in the
25 underlying provision. I think it is important to clarify

1 what has been an inequity in the tax code and glad that
2 it is finally going to get clarified.

3 Thank you.

4 The Chairman. Any other colleagues want to weigh
5 in on this?

6 [No Response.]

7 The Chairman. Then all those in favor will say
8 aye.

9 [A Chorus of Ayes.]

10 The Chairman. All those opposed will say no.

11 [A Chorus of Nays.]

12 The Chairman. The ayes appear to have it. The
13 ayes have it and the amendment is passed, passed by voice
14 vote.

15 And the next set of amendments are Senator Toomey's
16 3 through 9 that I gather he will not seek a vote on,
17 involving energy tax credits and the permanent bonus.

18 Senator Toomey?

19 Senator Toomey. Mr. Chairman, I think what we
20 worked out was that I am going to discuss two amendments
21 right now. One is Number 6, which would be making
22 permanent the bonus depreciation, which it is my
23 intention to offer and withdraw, for reasons I will
24 mention. But the second would be Toomey Number 3, which
25 I do intend to bring to a vote.

1 So if it is appropriate, I will proceed with those.

2 The Chairman. Please do.

3 Senator Toomey. Thank you, Mr. Chairman.

4 The point I want to make with my Amendment Number 6,
5 which would make the bonus depreciation permanent, the
6 point I want to make is to distinguish between the
7 several very truly powerfully and unambiguously pro-
8 growth provisions we have in this underlying bill and
9 several items, many, unfortunately, which are not pro-
10 growth.

11 So here are the ones that I think are powerfully
12 pro-growth. It is bonus depreciation. It is the Section
13 179 expensing for small businesses, the active finance
14 exemption and the CFC look-through. The latter two
15 provisions are just a matter of equity and fairness and
16 uniformity in the code.

17 The previous two, the first two that I mentioned,
18 are just the sensible way to achieve the cost recovery
19 that has to happen in one form or another.

20 Especially the bonus depreciation is very pro-
21 growth. These things encourage investment. They are
22 widely applicable. There is no picking of winners and
23 losers. We do not favor one industry or even one
24 activity over another, and I think these should be the
25 goals of pro-growth tax policy.

1 The bonus depreciation encourages investment and
2 growth here in the U.S. It is only available to a
3 company to the extent that investment is made.

4 I think it is very important to point out that this
5 is not some kind of a gift. We should not look at this
6 as a tax expenditure. This is not a handout. The
7 corporate tax code is meant to apply to net income. That
8 is revenue minus expenses.

9 The expenses incurred in purchasing equipment have
10 to be recognized. It is a question of when. And so
11 timing matters. It does not, frankly, reduce revenue to
12 the government to do a bonus depreciation. It delays the
13 revenue, and that delay is not terribly important to the
14 government. It is very constructive to business for cash
15 flow and other reasons.

16 This would create jobs, without a doubt. It is, I
17 think, the single best feature in this bill, Mr.
18 Chairman.

19 My understanding is that if I ask for a vote, the
20 Chair would rule this as non-germane. And if I am
21 correct in that understanding, Mr. Chairman, then I will
22 withdraw the amendment, but I would urge my colleagues to
23 work with me to try to make this very, very constructive
24 pro-growth feature permanent as soon as we can.

25 The Chairman. It does go beyond the scope of the

1 markup and for that reason is not germane.

2 Senator Toomey. Thank you, Mr. Chairman.

3 So if I could proceed Number 3.

4 The Chairman. Please.

5 Senator Toomey. Mr. Chairman, my Amendment Number
6 3 is kind of the opposite of the one that I just
7 discussed. This is the one that, in my view -- well,
8 what this does is it would strike a number of provisions
9 in which we are simply picking winners and losers.

10 We are going through economic activities and
11 deciding which should be favored and showered with gifts
12 from the taxpayers and which should not.

13 So this is bad economic policy. It is bad politics.

14 It is not fair. So what my amendment would do, it would
15 strike a few of what I believe are the most egregious
16 provisions. It would strike the production tax credit
17 that subsidizes companies that produce electricity from
18 wind, solar, and other politically favored forms of
19 energy.

20 It would eliminate the credits for bio-fuel and
21 biodiesel and renewable diesel. It would eliminate the
22 credits for electric motorcycles and fuel cell vehicles,
23 and it would eliminate the credits for electric car
24 chargers and other forms of alternative fuel -- refueling
25 properties.

1 Let me be clear. I have no objection, I have
2 nothing against alternative forms of energy. I just
3 think they ought to compete on a level playing field.

4 I do not think we should force taxpayers to
5 subsidize inefficient, uncompetitive sources of energy.

6 The provisions that we are talking about here will
7 cost almost \$17 billion over 10 years for just a 2-year
8 extension. This is real money.

9 Finally, Mr. Chairman, let me be clear. These
10 provisions destroy jobs. We can certainly point to
11 individual jobs that are created in any field when we
12 throw money at that area. But when we systematically
13 force our society to pay more for energy than it actually
14 needs to cost, we are wasting money that could otherwise
15 be spent on productive things, could be invested.

16 Under some circumstances, I understand, under some
17 circumstances, wind and solar can be competitive and to
18 that extent, wonderful, let it compete and let it earn
19 its own market share. But we should not be subsidizing
20 this the way we are.

21 So, Mr. Chairman, my amendment would strike these
22 provisions. I know it is completely non-controversial
23 and I assume we will just accept it.

24 The Chairman. Thank you, Senator Toomey.

25 Let us start with -- Senator Grassley, IO believe,

1 would like to comment on this.

2 Senator Grassley. I imagine, as I used to be
3 called the father of the wind energy tax credit, I
4 suppose now I am the grandfather of the wind energy tax
5 credit. So you would not be surprised if I strongly
6 oppose this suggestion by Senator Toomey.

7 I am, obviously, sympathetic to the argument that
8 the tax code has gotten too cluttered with too many
9 special interest provisions. That is the reason many of
10 us have been clamoring for tax reform for years now.

11 But just because we have not cleaned up the tax
12 code in a comprehensive way does not mean that we should
13 pull the rug from under our domestic renewable energy
14 producers. Doing so would cost jobs, harm our economy,
15 the environment, and our national security.

16 The wind energy today supports 80,000 American jobs,
17 7,000 in my State of Iowa. The tax incentive has spurred
18 \$105 billion of private investment since 2005.

19 The proponents of this amendment want to have this
20 debate in a vacuum. It should not be held in a vacuum.
21 We ought to do it with regard for many incentives and
22 subsidies that exist for other sources of energy and are
23 permanent law.

24 For example, and this is what I would ask Senator
25 Toomey to pay attention to, because he and I had a

1 private discussion on this yesterday, the 100-year-old
2 oil and gas industry continues to benefit from tax
3 preferences that benefit only their industry.

4 The list I am going to give you does not include
5 general business tax policy, such as tax preferences for
6 domestic manufacturing or all the depreciation stuff that
7 we talk about throughout the entire economy.

8 We have expensing for intangible drilling costs. We
9 have deductions for tertiary injectants. We have
10 percentage depletion for oil wells, special amortization
11 for geological costs.

12 These four tax preferences for this single industry
13 result in the loss of more than \$4 billion annually in
14 revenue.

15 Nuclear energy is another great example. The first
16 nuclear power plant came online in 1958, 56 years ago.
17 Nuclear receives special tax treatment for
18 decommissioning trust funds.

19 Congress created a production tax credit for this
20 mature industry in 2005. Quite frankly, I was a part of
21 that. It was a bill that I helped develop. And that is
22 available until 2020. Nuclear also benefits from Price-
23 Anderson Federal liability insurance. Talk about
24 temporary measures becoming permanent, that was a
25 temporary measure in 1958 and it has been renewed through

1 2025.

2 Nuclear energy also has received \$74 billion in
3 Federal research and development dollars since 1950.

4 Now, are these crony capitalist handouts? Why is
5 repealing a subsidy for oil and gas or nuclear energy
6 production a tax increase on energy producers and
7 consumers while repealing an incentive on alternative
8 renewable energy is not?

9 This is all part of intellectual dishonest argument.

10 I authored this in 1992 and when we did it, we knew
11 that it was not going to be forever. It is going to be
12 phased out when it is a mature industry and it is getting
13 close to that now.

14 In 2012, the wind energy was the only industry to
15 put forward a phase-out plan. But any phase-out must be
16 done in the context -- get this -- in the context of
17 comprehensive tax reform, where all energy tax provisions
18 are on the table, and it should be done responsibly over
19 a few years to provide certainty and ensure a viable
20 industry.

21 So I oppose the amendment.

22 The Chairman. Thank you, Senator Grassley.

23 Colleagues, it is my intent to just keep on going,
24 because we are very close to being able to wrap this up,
25 and, certainly, not much longer than 1:00 looks very

1 doable to me.

2 So, Senator Stabenow? Let us recognize Senator
3 Stabenow and then I think we ought to go to a vote.
4 Senator Toomey asked for a recorded vote and that, of
5 course, is within the rules.

6 Senator Stabenow?

7 Senator Stabenow. Thank you, Mr. Chairman. I
8 just want to associate myself with Senator Grassley's
9 comments and, also, just indicate that we have had
10 special provisions in the tax code since 1916 for oil.
11 They are not part of extenders. They are not required to
12 be renewed every year or every 2 years.

13 Whenever we talk about picking winners and losers in
14 energy, I would argue that Congress has picked a winner
15 in the oil industry and they won.

16 What we are trying to do is level the playing field
17 and give other American energy opportunities to be able
18 to compete for homegrown energy here at home.

19 So I would strongly oppose the amendment.

20 The Chairman. Thank you, Senator Stabenow.

21 A recorded vote has been requested. The Clerk will
22 call the roll.

23 The Clerk. Mr. Rockefeller?

24 Senator Rockefeller. No.

25 The Clerk. Mr. Schumer?

1 Senator Schumer. No.
2 The Clerk. Ms. Stabenow?
3 Senator Stabenow. No.
4 The Clerk. Ms. Cantwell?
5 Senator Cantwell. No.
6 The Clerk. Mr. Nelson?
7 The Chairman. No by proxy.
8 The Clerk. Mr. Menendez?
9 The Chairman. No by proxy.
10 The Clerk. Mr. Carper?
11 The Chairman. No by proxy.
12 The Clerk. Mr. Cardin?
13 The Chairman. No by proxy.
14 The Clerk. Mr. Brown?
15 The Chairman. No by proxy.
16 The Clerk. Mr. Bennet?
17 Senator Bennet. No.
18 The Clerk. Mr. Casey?
19 The Chairman. No by proxy.
20 The Clerk. Mr. Warner?
21 The Chairman. No by proxy.
22 The Clerk. Mr. Hatch?
23 Senator Hatch. Aye.
24 The Clerk. Mr. Grassley?
25 Senator Grassley. No.

1 The Clerk. Mr. Crapo?
2 Senator Hatch. No by proxy.
3 The Clerk. Mr. Roberts?
4 Senator Roberts. Yes.
5 The Clerk. Mr. Enzi?
6 Senator Enzi. Aye.
7 The Clerk. Mr. Cornyn?
8 Senator Hatch. No by proxy.
9 The Clerk. Mr. Thune?
10 Senator Thune. No.
11 The Clerk. Mr. Burr?
12 Senator Burr. Aye.
13 The Clerk. Mr. Isakson?
14 Senator Isakson. Aye.
15 The Clerk. Mr. Portman?
16 Senator Portman. No.
17 The Clerk. Mr. Toomey?
18 Senator Toomey. Aye.
19 The Clerk. Mr. Chairman?
20 The Chairman. No.
21 The Clerk will announce the results of the vote.
22 The Clerk. Mr. Chairman, the final tally is 6
23 ayes, 18 nays.
24 The Chairman. The amendment fails.
25 The next amendment is Senator Schumer's 2.

1 Senator Schumer. Thank you, Mr. Chairman. This is
2 Amendment Number 2 and what it would simply do -- it is a
3 very minor amendment -- would add bike share membership
4 to the cost of employer-provided transportation benefits.

5 As you know, the code allows employers to provide
6 compensation for transportation costs of their employees
7 on a tax-free basis. They include costs associated with
8 parking and mass transit and, since 2008, associated with
9 bike maintenance and storage if the employee regularly
10 bikes to work.

11 However, last summer, the IRS ruled the costs
12 associated with bike share memberships were not eligible
13 under the statute as currently drafted and indicated that
14 legislative action is necessary to broaden the
15 definition, even though they had accepted that definition
16 for previous years.

17 All the amendment would do is just that. It would
18 extend the \$20 a month benefit already available to
19 private bike owners to those participating in a bike
20 share program. Many employers across the country could
21 offer tax-free bike share memberships as a benefit to
22 their employees.

23 Now, obviously, this is important to New York City.
24 We have big biking, but it is hardly New York City.
25 There are bike share programs in places like Colorado, in

1 Boulder, Denver and Fort Collins; Houston, Fort Worth and
2 San Antonio in Texas; Pittsburg, Seattle, Northern
3 Virginia, down in Norfolk, Des Moines, Baltimore,
4 Charlotte, and probably the biking capital of America,
5 Portland, Oregon.

6 The Chairman. True. True.

7 Senator Schumer. And those are just a few of the
8 areas that would benefit, and I hope we will pass it.

9 I want to thank Senator Warner. He is my cosponsor
10 here.

11 The Chairman. Would other colleagues like to be
12 recognized on the Schumer amendment?

13 [No Response.]

14 The Chairman. All those in favor will say aye.

15 [A Chorus of Ayes.]

16 The Chairman. Any opposed will say no.

17 [A Chorus of Nays.]

18 The Chairman. The ayes appear to have it. The
19 ayes have it.

20 The next amendment will be Senator Roberts.

21 After Senator Roberts, we will have Stabenow 5 and 9
22 on FERC and empowerment zones; Casey 1, 2, 3 and 4; and,
23 Brown Number 2.

24 Now, we have Senator Roberts.

25 Senator Roberts, your amendment is your Amendment

1 Number 1.

2 Senator Roberts. Amendment Number 1. I have here
3 Number 12 on the handout. And if we are still trying to
4 find it, Number 62 on your top deck of 52.

5 Mr. Chairman, I call up Roberts Amendment Number 1.

6 Everybody calm down a little bit. The amendment
7 concerns the ongoing investigation of the Internal
8 Revenue Service activities relating to social welfare
9 organizations, an investigation that is still being
10 conducted by this Committee.

11 I want to thank Senator Hatch and his staff and I
12 want to thank Senator Wyden and the majority staff for
13 continuing this investigation.

14 This Committee has not decided to go into public
15 hearings, but trying to get to the bottom of this, which
16 was described by the President as an outrageous event.
17 It has now turned into a smidgeon, but I think outrageous
18 certainly is the correct assumption.

19 Contrary to what some contend, targeting of social
20 welfare groups, the intrusive questions asked of
21 applicants, the delay in processing applications, all of
22 which continue as I speak by the IRS is not the result of
23 poorly drafted regulations. After all, the regulations
24 in question have been in operation for about 50 years.
25 Nor are these issues the result of mere errors and

1 misjudgment by lower level staff in a satellite office.

2 And I do not say this often, but I do agree with the
3 *Washington Post* that this is not just the use of
4 inappropriate criteria. This is a deliberately designed
5 abuse of Federal resources and enforcement powers for
6 purely political purposes, and it is part of a larger
7 pattern.

8 Unfortunately, I believe this Administration is
9 using the IRS to shut down its critics and opponents. It
10 is all about campaign politics and an effort to shape the
11 coming election. This was used to shape the elections of
12 2010 and 2012.

13 I made it very clear before and I intend to keep
14 pushing on this, the deliberate scheme to abuse the First
15 Amendment rights of social welfare organizations is
16 beyond the pail. It is morally wrong, it is ultimately
17 destructive to our system of government.

18 These practices show clearly that the IRS has no
19 business regulating constitutionally guaranteed free
20 speech rights, and we ought to move today to get the
21 agency completely out of this role.

22 Now, this is why I offer this amendment, to stop the
23 IRS from proceeding with new rules that would formalize
24 its suppression of the free speech rights of social
25 welfare groups.

1 It is not up to the government, Mr. Chairman, to
2 tell these organizations what they can say to their
3 members. The IRS has no competence in judging whether a
4 group's political views and activities are appropriate.

5 The IRS is the Nation's tax collector. Because of
6 its role, the IRS should be seen as politically neutral,
7 at best. That it currently is engaging in overt
8 political action is a very big problem.

9 My amendment is straightforward. Senator Flake,
10 Jeff Flake from Arizona, has joined me as a cosponsor.

11 I want to tell my friends across the aisle that
12 right now we have over 50 cosponsors. That means under
13 the new rules, if the Majority Leader would allow the
14 amendment to be brought to the floor of the Senate, it
15 could pass.

16 It calls upon the IRS to suspend rulemaking in the
17 501(c)(4) area until the investigations are completed.
18 This is just common sense. We have an investigation by
19 the IG. We have an investigation on the House Ways and
20 Means Committee. We have an investigation ongoing in
21 this Committee.

22 It is my understanding, on this Committee, there are
23 thousands and thousands and thousands of pages that have
24 been made available to the staff that is doing this job.
25 To work through this is rather incredible.

1 We have not had, in my opinion, enough information
2 from that so-called satellite office to Treasury or to
3 the White House or to anywhere else.

4 This is just common sense that while we are having
5 an investigation, the IRS should stop promulgating these
6 regulations.

7 So at this point, Mr. Chairman, while I think we
8 should move this amendment today, I know that you will
9 rule it as not germane. I do not want to hold up this
10 hearing anymore than we have. I do request its
11 withdrawal. But rest assured, this issue and my
12 amendment and that of Senator Flake and many others is
13 not going away.

14 The Chairman. Senator Roberts, first of all, I do
15 appreciate your withdrawing it. It is not germane today,
16 number one.

17 Number two, the other reason I think it is important
18 that this be withdrawn is this Committee, to a great
19 extent, because Senator Hatch and Senator Baucus focused
20 on what is still the only bipartisan investigation into
21 this, we are moving to complete our work.

22 Senator Hatch has been very collegial in terms of
23 bringing me into this, and, colleagues, I just think it
24 would be premature for us to act before we have a chance
25 to complete what is the only bipartisan inquiry into this

1 matter.

2 So it has been withdrawn.

3 Senator Hatch, would you like to make a comment on
4 this?

5 Senator Hatch. If I could just make a few comments
6 on this. Mr. Chairman, I think you are doing a good job.

7 I have been working stop this targeting of
8 grassroots conservative 501(c)(4) groups ever since we
9 first learned that the IRS was singling these groups out
10 for, quote, "special attention," unquote, during the
11 application process.

12 I fully support what my friend from Kansas is
13 talking about here today, and I just want to add that
14 Republicans have good reason to call this the, quote,
15 "Stop Targeting Political Beliefs Act," unquote, despite
16 the Administration's desperate attempts to avoid using
17 the word, quote, "targeting," unquote.

18 They want to say, quote, "inappropriate criteria,"
19 unquote, was used. Throw a few low level Federal workers
20 under the bus and move on.

21 Well, not so fast. The Treasury Inspector General
22 said that targeting by the IRS was proven to be true.
23 Just yesterday, when IRS Commissioner John Koskinen, who
24 I regard very highly, gave a speech in which he said he
25 had not called it targeting.

1 The *Washington Post* fact checker assessed the
2 Commissioner three Pinocchios. The *Post* said it is
3 counterproductive and silly for the Commissioner to deny
4 that the phrase, quote, "targeting," end quote, has been
5 used. I agree.

6 Targeting by the IRS is exactly what happened, and
7 it must never be allowed to happen again.

8 Let me just say this. There are a lot of people out
9 there in Hollywood that wanted to get a 501(c)(3) through
10 called Friends of Abe. These are conservative people who
11 basically take a lot of flack in Hollywood for being
12 conservative. It took 3 years to get their 501(c)(3)
13 application through.

14 It should never take much more than a month, if it
15 is an upfront decent application.

16 All I can say is that there is something really
17 wrong over there and we have got to get it straightened
18 out and if we do not get it straightened out, the
19 American people are going to straighten us out, and they
20 should.

21 So I commend the distinguished Senator from Kansas
22 for bringing this up. I also commend him for withdrawing
23 it since it is not germane. I commend the distinguished
24 Chairman for being able to do what he is doing here in
25 this process, and I just personally appreciate it very

1 much. He is doing a great job.

2 But I think this needed to be said. I am glad you
3 did, Senator Roberts, and I feel pretty deeply about it
4 and I am not going to let go until we get this thing
5 straightened out.

6 The Chairman. I thank my colleague for
7 withdrawing. And I would only say -- because we will go
8 right to Senator Stabenow's amendment -- that Senator
9 Murkowski deals with this issue very well through what
10 she calls the Even Steven proposal. The same rules that
11 apply to the Sierra Club ought to apply to the NRA, and
12 we put in a bill to do that.

13 So we will keep working with you, Senator Roberts.

14 Let us go now to Senator Stabenow.

15 Senator Stabenow. Thank you, Mr. Chairman.

16 I have two amendments. The first I would offer for
17 a vote has bipartisan support. It would extend the -- it
18 is Stabenow Number 9. It would extend the rule in
19 Section 451(i) for the sale of electric transmission
20 assets from utilities to independent transmission
21 companies.

22 The rule expired last year. And I would just
23 indicate that when the system works well, people take for
24 granted they can turn their lights on. But in order to
25 do that, you have to have a robust transmission grid to

1 make sure the electricity is available and affordable.

2 Over the last decade, regulators at the Federal and
3 State level have required or encouraged utility companies
4 to sell or transfer control of their transmission assets
5 to independent transmission organizations. They have
6 done this to promote new investment.

7 However, when a utility considers selling its
8 transmission property, it could likely face a huge tax
9 bill that would encourage the sale.

10 So in 2004, we created a rule to encourage these
11 sales and their reinvestments back into the utility
12 property, was put in place to qualify. It has no cost.
13 It simply spreads the utility's gain over 8 years, and I
14 would ask support to continue this from the Committee.

15 The Chairman. I think it is a very good idea. JTC
16 scored it as having no cost.

17 All those in favor will say aye.

18 [A Chorus of Ayes.]

19 The Chairman. Any opposed?

20 [A Chorus of Nays.]

21 The Chairman. The ayes have it.

22 My understanding is Senator Roberts would like to
23 speak on a couple of his other proposals.

24 Senator Stabenow. Mr. Chairman, if I might, there
25 was actually a second one listed here.

1 The Chairman. I am sorry.

2 Senator Stabenow. I hope this will be quick, also.

3 The Chairman. That is my omission. Let us have
4 you do your second one and then we will have Senator
5 Roberts in the queue here.

6 Senator Stabenow. No problem. Amendment Number 5,
7 which simply would extend the empowerment zone program
8 for 2 additional years.

9 We have studies, the American Economic Review and
10 Yale University have both studied the effectiveness of
11 empowerment zones.

12 I would argue, Mr. Chairman, that in tax reform, we
13 need to take a look at how we might reform, modernize and
14 strengthen this policy, but we certainly want to continue
15 it until we get to that discussion next year.

16 So I would ask support for the 2-year extension on
17 empowerment zones.

18 The Chairman. I would also support this.

19 Are there colleagues who would like to speak on
20 this?

21 [No Response.]

22 The Chairman. All those in favor will say aye.

23 [A Chorus of Ayes.]

24 The Chairman. All those opposed will say no.

25 [A Chorus of Nays.]

1 The Chairman. The ayes appear to have it. The
2 amendment is passed.

3 Senator Roberts?

4 Senator Roberts. Thank you, Mr. Chairman.

5 Mr. Chairman, I call up Roberts Amendments Number 3
6 and 4.

7 My two amendments have one thing in common -- they
8 repeal two egregious tax provisions in the Affordable
9 Health Care Act. To that end, Roberts Amendment Number 3
10 would repeal Section 9003 of the Affordable Health Care
11 Act.

12 Here is the practical effect of Section 9003. It
13 creates a disincentive for consumers to shop for the
14 cheapest over-the-counter medication and instead may
15 encourage them to turn to prescriptions that are covered
16 by insurance.

17 My amendment would reverse the requirements to have
18 a prescription for your over-the-counter medications in
19 order to be reimbursed through your flexible savings
20 account or health savings account.

21 The prescription requirement limits consumer choice.

22 It is onerous for everyone involved, including working
23 families, doctors, pharmacists, and employers.

24 In this overburdened health care system that we have
25 now, we cannot afford this provision that wastes time and

1 money, puts people back into the health care system who
2 do not need to be there.

3 In addition, I would like to point out that this
4 amendment is identical to my standalone legislation,
5 Restoring Access to Medication Act, that is Senate Bill
6 1647.

7 I look forward to working with our Chairman on my
8 common sense solution, supported by patient groups, AARP,
9 AMA, Chamber of Commerce, many other groups representing
10 patients and providers and employers.

11 Next, I would like to turn to Roberts Amendment
12 Number 4, Mr. Chairman.

13 The Chairman. Is that one withdrawn, I would ask
14 the Senator?

15 Senator Roberts. I was going to withdraw both of
16 them, sir.

17 The Chairman. I wanted you to know, just on that
18 last one, I very much share your view with respect to the
19 policy. It is not germane and I want you to know I want
20 to work with you.

21 Senator Roberts. I really appreciate that. Maybe
22 I should not withdraw it.

23 [Laughter.]

24 The Chairman. I think that would not be the way to
25 proceed.

1 Senator Roberts. I see. I yield to the advice of
2 the Chairman.

3 Next, I would like to turn to Roberts Amendment
4 Number 4, which would repeal the health insurance tax,
5 that is HIT, the HIT tax, included in Section 9010(b),
6 bravo, of Obamacare.

7 Unfortunately, many of the provisions included in
8 Obamacare actually make health care more expensive for
9 individuals and small businesses.

10 In particular, the \$145 billion -- billion -- health
11 insurance tax will hit directly small business very hard.
12 The HIT provision is assessed on all health insurance
13 companies based on their national aggregate health
14 insurance premiums. This new tax on small businesses
15 will raise insurance costs for already struggling small
16 businesses and is contrary to the goals of health care
17 reform.

18 The HIT was clearly included for the sole purpose of
19 being a revenue raiser. This burdensome tax will raise
20 \$8 billion in 2014, increasing to \$14.3 billion in 2018,
21 and increased based on premium trend thereafter.

22 The Congressional Budget Office and the Joint
23 Committee on Taxation have reported that this tax will be
24 passed along to individuals -- fancy that -- and small
25 business in the form of higher health insurance premiums,

1 increasing the cost of health care coverage for small
2 business and families.

3 Furthermore, the National Federation of Independent
4 Businesses actually projects the HIT tax will add an
5 additional \$475 per year for the average individually
6 purchased family policy. That is nearly \$5,000 over a
7 course of a decade.

8 At this time, I will withdraw both of my amendments,
9 or this last amendment, but I firmly believe that these
10 tax provisions are badly hurting our economy and need to
11 be repealed immediately.

12 Thank you, sir.

13 The Chairman. I thank my colleague for
14 withdrawing. We could have a debate for hours on the ACA
15 and, of course, just this week, the Administration
16 announced that over 7 million people have enrolled.

17 So this debate is going to be continuing and we are
18 going to have plenty of opportunities to do that here in
19 this Committee, and I appreciate my colleague
20 withdrawing.

21 Senator Hatch?

22 Senator Hatch. Well, all I can say is that I hate
23 to see this tax continue, because it is just passed on to
24 consumers, and, frankly, the Senator has made a very good
25 case on this.

1 I hope we will all look at this a little more
2 carefully. I am not sure we should categorize it in the
3 context of criticizing the ACA, but nevertheless, it is a
4 criticism.

5 The Chairman. Let us go to the Casey proposals, 1,
6 2, 3, 4.

7 Senator Casey. Thank you, Mr. Chairman. I will
8 speak on all four, and I will start with the adoption tax
9 credit.

10 Mr. Chairman, the credit is, as we all know, and
11 this is a bipartisan concern, critically important to
12 support families giving vulnerable children, as some
13 might say, a forever home. Congress made the right
14 decision when we made this tax credit permanent last
15 year. That was a good moment for the Congress.

16 The next step and I think an essential step is to
17 make it not only a permanent credit, but a credit that is
18 refundable.

19 For 2 years, in 2010 and 2011, the tax credit was
20 refundable, but is no longer. This provided an economic
21 benefit to many of the families who adopted children
22 around that time.

23 Data from HHS tells us that approximately 46 percent
24 of families who adopt children from foster care have
25 incomes that place them at or below just 200 percent of

1 the Federal policy level.

2 Many of these families' tax burdens are so low that
3 they cannot benefit from the adoption tax credit at all
4 unless it is, in fact, refundable.

5 So I would urge my colleagues to consider making
6 this important tax credit fully refundable to help
7 families to welcome children into their homes.

8 Mr. Chairman, I will next move to Casey Number 2,
9 which is, I mentioned before, the 15-year cost recovery
10 for restaurants and retail establishments.

11 Senator Cornyn and I, in April of last year,
12 introduced a bill that contained this provision. It has
13 tremendous bipartisan support, making the 15-year cost
14 recovery provision permanent. Instead of providing a
15 depreciation benefit over many, many years, we want to
16 keep it at 15 years. You get a much bigger benefit in 1
17 particular year.

18 Faster cost recovery is directly reflected in a
19 company's bottom line and it does free up cash for that
20 particular company. Maximizing certainty in the tax code
21 is a goal I think we all share.

22 The National Restaurant Association found that
23 uncertainty about depreciation, this very issue, and
24 other provisions has forced restaurants to forego
25 improvement projects that would have produced some

1 200,000 jobs.

2 So it is about small business and, in particular,
3 restaurants and retail establishments.

4 Next, I will move to Amendment Number 3, which
5 involves important provisions that also relate to small
6 businesses. First and foremost, the amendment increases
7 the -- I should say increases and makes permanent the tax
8 deductions for startup expenses and clarifies cash
9 accounting rules for small businesses.

10 Both of these measures will ease the tax burden on
11 small and emerging businesses. Small businesses, as we
12 know, drive economic growth. We all know that and we
13 have got to make sure that our policy reflects that.

14 Congress, I believe, must do everything it can to
15 encourage small businesses to grow and invest. These
16 provisions relating to the permanent doubling of the
17 deduction for startup expenses, organization expenses and
18 syndication fees and the provision to clarify cash
19 accounting rules are critical for our small businesses.

20 Finally, Mr. Chairman, Amendment Number 4 involves
21 the inland waterways trust fund. The fee that is the
22 driver of that fund has not been increased since 1994.

23 What I have proposed, and we have tremendous
24 bipartisan support for this, as well, is raising that
25 user fee by only \$0.09. Strangely enough, unlike a lot

1 of things in our society, the ones who will have to pay
2 the higher user fee support it overwhelmingly. Over 300
3 users of this fund will, in fact, have supported this
4 \$0.09 per gallon barge fuel fee.

5 It is endorsed by 250 national, state and local
6 organizations and, as I have mentioned, it is a huge
7 benefit to any state that moves commerce or commodities
8 on waterways, and it is a huge driver of economic growth.
9 Without it, there is not just uncertainty, but real
10 danger that that part of our economic and infrastructure
11 system could be compromised.

12 So, Mr. Chairman, on Amendments Number 1, 2, 3 and
13 4, I appreciate the opportunity to speak about them and
14 to continue our work on them, but I would withdraw them
15 at this time.

16 The Chairman. Thank you. It is a set of
17 amendments that is withdrawn.

18 Senator Brown?

19 Senator Brown. Thank you, Mr. Chairman. Calling
20 up Amendment Brown Number 2.

21 Thank you, Mr. Chairman and fellow members of the
22 Committee.

23 Today, along with my cosponsors, Senators Bennet,
24 Schumer, Rockefeller, Casey, Menendez, Stabenow and
25 Cardin, I am offering an amendment to index the child tax

1 credit for inflation. Nothing is more important to what
2 we are elected to do to help create opportunities and to
3 expand the middle class. That is what CTC takes a step
4 towards.

5 We are extending a series of tax provisions in this
6 bill in order to prevent a tax increase on business.
7 Yet, each year that we fail to index the child tax credit
8 for inflation, we raise taxes on 50 million children.

9 Worse yet, by the end of the decade, a million more
10 children will live in poverty.

11 Indexing the CTC is unfinished business. Taxes on
12 our wealthiest state owners are indexed for inflation.
13 Children deserve the same.

14 I have also introduced an amendment to make the
15 current ETIC and CTC law permanent. These are elements
16 of a bill I have introduced with Senators Durbin,
17 Chairman Wyden, and 33 others. This bill would
18 strengthen the EITC for workers without children,
19 something that has been sort of a separate -- sort of
20 been ignored by this House and Senate over many years,
21 what happens with childless low income workers that are
22 doing what we want. They are working hard and we should
23 reward work here as we have done with other elements of
24 the EITC.

25 These are bipartisan ideas and issues that fight

1 poverty, encourage work, and promote responsibility. We
2 should all be able to support these common sense ideas.

3 Mr. Chairman, I wanted to offer it and withdraw it.
4 I will not ask for a vote.

5 The Chairman. Thank you, Senator Brown.

6 Let us recognize Senator Rockefeller.

7 And I want you to know I want to work very closely
8 with you on this issue as part of the broader tax reform
9 issue, the full question of how we are going to make sure
10 that young people, kids, have that ladder of upward
11 economic mobility is hugely important. I have had many
12 people, many organizations contact me. I am going to
13 work with you and Senator Rockefeller.

14 Senator Rockefeller?

15 Senator Rockefeller. I just wanted to
16 congratulate, Mr. Chairman, Senator Brown, something
17 which I am always reluctant to do, but which I will do.
18 He truly earns it and he certainly has.

19 It is interesting how pieces of legislation which
20 appear to be relatively new or obscured, the child tax
21 credit actually did not exist until 1997, where it came
22 out of the National Commission on Children. But when you
23 add the child tax credit to the earned income tax credit,
24 just those two things, both somewhat obscured to the
25 average American, those two constitute the largest anti-

1 poverty program in our country.

2 The Chairman. Well said, Senator Rockefeller.

3 Senator Casey, see if you can top that.

4 Senator Casey. I cannot. Two reasons for seeking
5 recognition. One is to reiterate or to endorse what both
6 Senator Rockefeller and Senator Brown said. There are
7 very few things we can do here that has that kind of
8 direct impact on poverty.

9 Number two, I failed, when I was speaking about my
10 adoption tax credit amendment or proposal, to recognize
11 Senator Rockefeller's work on this for many, many years.
12 I am grateful for his help on this, and thank you for
13 that support.

14 The Chairman. Thank you. So that has been
15 withdrawn, and we are going to continue to work on that
16 as part of comprehensive tax reform.

17 Colleagues, we are now in the home stretch. We have
18 just got a handful left.

19 The first item is a colloquy with Senators Schumer,
20 Menendez, Bennet and Rockefeller about disaster
21 assistance.

22 Senator Schumer. Thank you, Mr. Chairman.

23 I just want to take a few moments to talk about
24 Amendment Number 3, Schumer Amendment Number 3. I am not
25 going to ask for a vote, but a number of us do want to

1 discuss this.

2 I have offered this amendment to urge the Committee
3 to make consideration of a disaster tax package a top
4 priority this year.

5 As my fellow Committee members know, we have enacted
6 packages like this in the past for disasters like
7 Katrina, Midwestern floods, tornadoes. In the wake of
8 Hurricane Sandy and other disasters that my colleagues,
9 unfortunately, experienced in their own States, it is
10 time for Congress to step in and aid recovery in affected
11 regions.

12 The affected regions in my State are still
13 recovering from Sandy's impact and targeted relief like
14 this is a huge lifeline for Americans as they rebuild
15 their houses, their businesses, and their lives.

16 I am pleased that a number of colleagues in the
17 Senate and on Committee are working with us on new
18 legislation that would do just that.

19 So I hope this Committee will move to hold hearings
20 and a markup as soon as possible.

21 With that, I would like to recognize Senator
22 Menendez.

23 Senator Menendez. Thank you, Senator Schumer.

24 Look, of course, as I know many of our colleagues
25 know, we are still feeling Hurricane Sandy's impact

1 throughout the northeast. Entire communities were
2 completely, completely devastated, and it takes time to
3 recover from a disaster like that.

4 And though the people of New Jersey are facing that
5 challenge with courage and determination, they still have
6 many obstacles before them.

7 Extending to them and to others the same type of tax
8 relief we extended to victims of past disasters is the
9 least we can do, and I certainly support the Committee
10 moving forward on this issue this year and look forward
11 to working with my colleagues who understand that that is
12 why we call ourselves the United States of America. We
13 are all in this together.

14 Thank you.

15 The Chairman. Thank you.

16 Senator Cantwell?

17 Senator Cantwell. I would like to continue on that
18 front. I mentioned earlier in my opening statement about
19 the communities of Oso, Darrington and Arlington. This
20 is one of the worst disasters in our State's history.
21 The death toll is now 30 Washingtonians, with still many
22 missing.

23 So not only has it taken out homes and damaged
24 structure, it has basically cut off the community of
25 Darrington because of the mud slide in a major arterial

1 that is a connector to the North Cascades pass.

2 So these businesses which usually commuted and did
3 business with commerce, maybe a 50-minute commute, so we
4 have teachers who were teaching their communities, people
5 back and forth now have a 2-hour commute one-way.

6 So it definitely has an impact on major businesses,
7 the major employer in the community.

8 So I want to work with my colleagues who faced
9 similar issues with Sandy and make sure that we are
10 updating our code as it relates to disaster relief.

11 The Chairman. You started talking to me about it a
12 few hours after it hit the northwest. We will be working
13 with you.

14 Senator Rockefeller, would you like to comment on
15 this? All right. That colloquy is completed.

16 Senator Thune, you wished to address the wind PTC.

17 Senator Thune. Mr. Chairman, I want to call up
18 Thune Amendment Number 2, which is Committee Amendment
19 Number 75.

20 What this does is it proposes a 5-year phase-out of
21 the Section 45 production tax credit as it relates to
22 electricity from wind.

23 The Chairman's modified mark does include the 2-year
24 extension of the wind PTC that expired at the end of last
25 year, which I support.

1 But I intend to withdraw this amendment, but I am
2 offering it because I think it is time that we have an
3 earnest conversation about the wind PTC going forward and
4 what we intend to do.

5 I would point out that it has been very successful.

6 Since Father or Grandfather Grassley authored this back
7 in 1992, we have now, the wind that is being generated in
8 this country, 35 percent of it in the last year, of all
9 new power capacity, I should say in the last 5 years has
10 been from wind.

11 In my State of South Dakota, we rank only second to
12 Iowa. Twenty-six percent of our electricity generated is
13 from wind energy. And according to the American Wind
14 Energy Association, there are over 550 U.S. facilities
15 that manufacture for the wind industry in this country
16 and average annual private investment in wind has been
17 about \$18 billion annually over the past 5 years.

18 So it is not a nascent industry. It is maturing.
19 It is generating billions of dollars in revenue and
20 powering the equivalent of more than 15 million American
21 homes, which is something that we ought to celebrate.

22 But I think we also have to ask the question of how
23 long a Federal subsidy is necessary and how do we begin
24 to transition away from more than 2 decades of taxpayer
25 support.

1 When we considered this in August of 2012, a 2-year
2 extension of the PTC was the second largest business tax
3 extender at about \$12 billion. This time around, it is
4 \$13 billion. We know that is only going to grow as we
5 move forward.

6 So my view on this is fairly straightforward, and,
7 that is, rather than seeing a subsidy end abruptly due to
8 cost concerns, as we have seen with past renewable energy
9 credits, let us come up with a predictable and sensible
10 phase-out plan that provides more certainty to wind
11 developers and utilities, with a better value for the
12 taxpayer.

13 So this amendment is a 5-year phase-out going from
14 100 percent of the credit in 2014 and reducing every year
15 by 10 percent down to 60 percent in 2018, and it would
16 expire for projects thereafter.

17 The approach is similar, not exact, but similar to
18 the 6-year phase-out that the wind industry has
19 acknowledged would sustain a viable industry capable of
20 continued cost reductions in the price of wind energy.

21 The amendment also phrases the inflation update to
22 the credit for new projects, but it does not negatively
23 impact those projects that have already been placed in
24 service.

25 So, Mr. Chairman, the amendment affects only energy

1 generated from wind. It does not affect sources, but
2 wind is about 90 percent of that credit.

3 The 5-year phase-out approach was estimated last
4 October, when we submitted it to the Joint Tax Committee,
5 at about \$6 billion, which is less than actually half of
6 the cost of the 2-year extension that we are talking
7 about today.

8 So this amendment does stretch beyond the 2-year
9 scope of this markup. I know it is non-germane. I
10 acknowledge that it is a multi-year phase-out. It is
11 more appropriate for tax reform or for a comprehensive
12 energy bill, but I wanted to raise the issue.

13 I hope we can start this discussion about how we
14 transition away from perpetual Federal subsidies both for
15 wind and for other energy technologies that are no longer
16 in need of subsidies or special tax breaks.

17 The wind energy industry does deserve certainty. I
18 think it is important that we get away from this on-
19 again-off-again, 1-year, 2-year retroactive extension of
20 an expired credit, and I think it is important for the
21 American taxpayers. They deserve to know that they are
22 not going to be on the hook for a multi-billion dollar
23 tax credit forever, as well.

24 Mr. Chairman, I offer this. I withdraw it, but hope
25 that we can begin a serious discussion about how we

1 create a phase-out, a glide path that allows for a
2 transition from this, what has become a very sizeable
3 subsidy.

4 Mr. Chairman, I yield back.

5 Senator Grassley. Mr. Chairman?

6 The Chairman. Senator Grassley?

7 Senator Grassley. I think that Senator Thune asked
8 for dialogue on this issue and I would like to be part of
9 that dialogue, without saying that I agree with his
10 approach.

11 But the fact that as an industry gets more mature,
12 instead of waiting until it is mature to make a final
13 decision, we ought to start ahead of the curve, and I
14 would to encourage members of this Committee to think in
15 terms of what Senator Thune has suggested.

16 I yield.

17 The Chairman. Thank you.

18 The next item is a --

19 Senator Portman. Mr. Chairman, could I just
20 briefly comment?

21 The Chairman. Of course.

22 Senator Portman. Very quickly, to say I think I
23 made my views on the subject clear and I think the
24 outcome of the vote on my amendment suggests that Senator
25 Grassley is far more persuasive on this than I am.

1 That being said, I look forward to joining this
2 discussion and working with interested Senators,
3 including Senator Thune, on what I think is a very
4 thoughtful approach.

5 The Chairman. Very good. And it also fits the
6 longer-term tax reform vision of parity between energy
7 sources, the level playing field we talked about with
8 Senator Burr.

9 Let us now have the colloquy with respect to the
10 medical device tax with Senator Casey, and then we will
11 go to Senator Toomey's amendment.

12 Senator Casey. Mr. Chairman, thanks very much.

13 I wanted to address the amendment that Senator
14 Toomey has introduced regarding the medical device tax.

15 This industry is critical to Pennsylvania's economy.

16 According to the most recent data, more than 20,000, by
17 one estimate, more than 23,000 people are employed in the
18 industry. These are high quality jobs in our State and
19 so many others. Pennsylvania happens to be third in the
20 number of medical device industry employment.

21 I am also concerned about the potential economic
22 impact of the medical device tax, particularly the fact
23 that the tax is applied to all revenue and not just
24 profits. That is why I have supported a wide variety of
25 legislation that spurs and rewards innovation in the

1 medical device sector, including repealing of the tax
2 itself.

3 A number of my colleagues have proposed delaying the
4 device tax for 2 years as part of the bill we are marking
5 up today. I fully support the delay, but I cannot
6 support today's effort.

7 I respect the Chairman's authority to define the
8 scope of the markup. I think it is plainly evident that
9 the medical device tax issue is outside the parameters as
10 defined, which limit the provisions of this markup to
11 those provisions that have expired at the end of 2013 and
12 will expire at the end of 2014.

13 Therefore, I will support the scope of the markup.

14 The Chairman. Thank you, Senator Casey. And,
15 Senator Casey, I very much appreciate your leadership on
16 this extremely important issue. Your concerns about this
17 while matter, in my view, are well founded.

18 This has great implications for innovation. It has
19 great implications for job creation. AS you correctly
20 noted, it is not germane today because the medical device
21 tax is not an expiring tax provision.

22 I want you to know I am interested in working with
23 you on a whole host of issues surrounding this topic. As
24 you know, the device tax is based on sales. So,
25 certainly, there have been issues with respect to the

1 transparency question and all of the issues that shed
2 light on how the industry works.

3 But I want it understood that I think your concerns
4 are well founded. It has implications for innovation.
5 It has implications for jobs. And it is my intention to
6 work with you on a variety of the issues associated with
7 it.

8 Senator Casey. Mr. Chairman, thank you and I look
9 forward to working with you, as well.

10 The Chairman. Thank you.

11 Let us go now then to Senator Toomey's two
12 amendments, Amendment 1 and Amendment 5.

13 Senator Toomey. Thank you very much, Mr. Chairman.

14 Starting with Amendment 1, which is to delay the
15 medical device tax, I want to, first of all, thank
16 Senator Hatch for his strong leadership on this issue for
17 a long time, Senators Burr and Cornyn. Senator Roberts
18 has been a great help and a great champion for the repeal
19 of this tax.

20 I would like to ask consent to add Senators Thune
21 and Enzi, as well, as cosponsors. Mr. Chairman, I would
22 like to ask unanimous consent to have Senators Thune and
23 Enzi added as cosponsors.

24 The Chairman. Without objection, so ordered.

25 Senator Toomey. Thank you very much.

1 And let me just state for the record, it is my
2 strong preference that we fully and permanently repeal
3 the medical device tax rather than simply delay its
4 implementation for 2 years. But in keeping with the
5 overall structure of this mark, I am offering a 2-year
6 delay.

7 Senator Casey has pointed out, there is no question
8 that the medical device industry is a huge and very
9 important part of our economy, of our growth, and
10 improving the quality of our lives. From pacemakers to
11 orthodontics, hearing implants, surgical tools, knee
12 braces, joint replacements, the list is almost endless
13 and it is awfully important.

14 This is an industry that employs over 400,000
15 people. It is an industry that exports \$33 billion worth
16 of products a year. We have trade surplus.

17 This is just a terrific and innovative and really
18 important industry. Unfortunately, it was hit with a
19 completely inappropriate and very badly designed tax.
20 First of all, I do not think the industry should have
21 ever been singled out for this tax. But what is worse is
22 that it is a tax on revenue, completely irrespective of
23 profitability.

24 Every company that is subject to this tax has to pay
25 a tax on revenue whether they make money or not, which is

1 really one of the worst ways to design a tax. So not
2 surprisingly, it is costing us jobs. It is costing us
3 jobs today.

4 Cook Medical, which operates in Pennsylvania, they
5 completely abandoned plans for five new facilities they
6 were going to build across the Midwest.

7 Colorado-based Stryker Corp. has laid off 1,000
8 people and downsized or closed factories in Michigan and
9 New York.

10 Welch Allyn has cut jobs in Oregon.

11 The industry estimates that the medical device tax
12 has cost us, last year, 33,000 jobs. Well, the Senate
13 has, at least at some level, acknowledged this. A year
14 ago, a little over a year ago, 79 Senators voted to
15 repeal this tax during debate on the budget resolution.

16 In addition to every single Republican, 34
17 Democrats, 10 of whom are on this Committee, voted to
18 repeal this tax. Now, some are suggesting that this is
19 not the right vehicle for repealing the tax now, this tax
20 that is harming this industry and costing us jobs.

21 I would point out, Mr. Chairman, it is my
22 understanding anyway, that the Committee is likely to
23 exceed the scope of tax extenders when it adds the health
24 coverage tax credit. My understanding is that that would
25 otherwise fall outside the ordinary germaneness.

1 In any case, let us be clear. The germaneness is
2 crafted, in part, to keep this amendment out. So the
3 question is, are we serious about getting rid of this tax
4 or are we not. Twenty-one Senators on this Committee, 88
5 percent, voted to get rid of this last year. It scores
6 at \$3.4 billion.

7 Now, I will point out, this amendment is not offset.
8 I do not think we need to offset the repeal of this tax.
9 I do not think we should. However, if my colleagues on
10 the other side object to the repeal of the medical device
11 tax because it is not offset, I have another amendment
12 which I would be happy to bring up which does offset it,
13 and it offsets it by ending the subsidies we provide to
14 millionaires in the purchase of their Medicare benefits.

15 So we could do this a number of ways. Most of us
16 are open to a variety of ways to do this. But I just
17 hope that we are actually serious about repealing a tax
18 that is very, very harmful and demonstrably so.

19 This is the vote that is going to determine whether
20 or not we are serious about getting this done.

21 So I want to, again, thank my colleagues who have
22 supported this and urge support.

23 The Chairman. Well, Senator Toomey, as I indicated
24 in my discussion with Senator Casey, A, I voted or
25 repeal. Second, I am sympathetic to the implications for

1 innovation, for jobs.

2 But, colleagues, today we are voting on a bill that
3 would extend expiring tax provisions. The medical device
4 tax is not an expiring tax provision. In fact, I think
5 there was a reference to the matter Senator Brown is
6 interested in that is an expiring provision. So that is
7 why it is germane.

8 So I am going to rule now that Senator Toomey's
9 amendment is not germane.

10 Senator Hatch?

11 Senator Hatch. Look, we all know that this is an
12 ungodly terribly, stupid, dumbass tax.

13 [Laughter.]

14 Senator Hatch. I cannot believe -- I should not
15 have said that.

16 [Laughter.]

17 Senator Hatch. Poor Mormon boy that I am, you
18 know. But let me tell you, we can play around with this
19 thing for the next 5 years, because you needed \$30
20 billion or thereabouts for the Affordable Care Act.

21 We need to get rid of this. It is costing us our
22 companies. They are going overseas, and I do not blame
23 them. When you have a stupid tax like this and gross
24 sales tax, my gosh, it is hard to believe that we would
25 do that to one of the most growing, innovative, small

1 businesses in our country today.

2 I just have to say this maybe the last chance we
3 have in this Congress to be able to do something about
4 it. And, frankly, if it was not so overwhelmingly
5 supported, I might understand this.

6 Now, admittedly, it is non-germane, but I think it
7 is one of the few times we really have a chance of doing
8 something really worthwhile.

9 The Chairman. I have ruled that it is not germane.
10 Senator Toomey, do you want to appeal the ruling?

11 Senator Toomey. Mr. Chairman, under Rule 2(a), I
12 move the Committee consider the amendment,
13 notwithstanding the ruling of the Chair.

14 The Chairman. Under Rule 2(a) of the Committee
15 rules, for the Committee to consider the amendment,
16 notwithstanding the ruling of the Chair, two-thirds of
17 the members present must agree.

18 Thus, for the purpose, proxies are not in order.

19 The question before the Committee is shall the
20 Committee consider the amendment, notwithstanding the
21 ruling of the Chair.

22 A yes vote would allow consideration of the
23 amendment. A no vote would sustain the ruling of the
24 Chair.

25 I believe that a recorded vote is appropriate, and

1 the Clerk will now call the roll.
2 The Clerk. Mr. Rockefeller?
3 Senator Rockefeller. No.
4 The Clerk. Mr. Schumer?
5 Senator Schumer. No.
6 The Clerk. Ms. Stabenow?
7 Senator Stabenow. No.
8 The Clerk. Ms. Cantwell?
9 Senator Cantwell. No.
10 The Clerk. Mr. Nelson?
11 Senator Nelson. No.
12 The Clerk. Mr. Menendez?
13 Senator Menendez. No.
14 The Clerk. Mr. Carper?
15 Senator Carper. No.
16 The Clerk. Mr. Cardin?
17 Senator Cardin. No.
18 The Clerk. Mr. Brown?
19 Senator Brown. No.
20 The Clerk. Mr. Bennet?
21 Senator Bennet. No.
22 The Clerk. Mr. Casey?
23 Senator Casey. No.
24 The Clerk. Mr. Warner?
25 Senator Warner. No.

1 The Clerk. Mr. Hatch?
2 Senator Hatch. Aye.
3 The Clerk. Mr. Grassley?
4 Senator Grassley. Aye.
5 The Clerk. Mr. Roberts?
6 Senator Roberts. Aye.
7 The Clerk. Mr. Enzi?
8 Senator Enzi. Aye.
9 The Clerk. Mr. Thune?
10 Senator Thune. Aye.
11 The Clerk. Mr. Burr?
12 Senator Burr. Aye.
13 The Clerk. Mr. Isakson?
14 Senator Isakson. Aye.
15 The Clerk. Mr. Portman?
16 Senator Portman. Aye.
17 The Clerk. Mr. Toomey?
18 Senator Toomey. Aye.
19 The Clerk. Mr. Chairman?
20 The Chairman. No.
21 The Clerk will announce the results of the vote.
22 The Clerk. Mr. Chairman, the final tally is 9
23 ayes, 13 nays.
24 The Chairman. The amendment is not agreed to.
25 Colleagues, we can be done with this extenders

1 package here certainly in under 10 minutes. So I would
2 urge all colleagues to stay and we will have a final
3 vote.

4 Senator Burr. Mr. Chairman?

5 The Chairman. Yes?

6 Senator Burr. Recognized for 30 seconds, if I may.

7 The Chairman. Without objection, please.

8 Senator Burr. On the medical device tax amendment.

9 The Chairman. Yes.

10 Senator Burr. I would just like to urge my
11 colleagues -- Senators Casey and Toomey made a great
12 pitch for the economic impact. I think what is missing
13 here is the health care impact, and I just want to drive
14 with my colleagues.

15 If we are not going to solve it today, which we are
16 not, do not think that we can delay this much longer.
17 The impact is the loss of innovation and we have gone
18 through decades where we have seen bypass surgery
19 replaced by catheterization and stents. The outcome of
20 the patient was better. The cost of the procedure was a
21 tenth that of bypass.

22 And what is at risk right now is people looking at
23 the United States system that has always nurtured
24 innovation and it has found its way into better outcomes,
25 life that lasts longer, wellness that is perceived

1 faster, and that is what is at risk.

2 So let us find a way soon to come back together,
3 because I know we all believe we need to do away with
4 this, so that we make sure there is not permanent damage
5 to our health care system and to the outcomes for the
6 American people.

7 The Chairman. Senator Burr, I share your concern
8 about innovation, which is what I indicated in the
9 colloquy with Senator Casey. So we are going to continue
10 this discussion.

11 Now, Senator Toomey wishes to speak on his orphan
12 drugs matter, another area where I am very interested to
13 work with my colleague, and I understand we will not have
14 a vote on that.

15 Senator Toomey?

16 Senator Toomey. Thank you, Mr. Chairman.

17 I want to thank the bipartisan members of this
18 Committee who are supporting this effort, Senators Casey,
19 Roberts, Crapo, Carper, and perhaps others.

20 I think people are probably well aware that the
21 Affordable Care Act created a fee on pharmaceutical
22 companies. In that legislation, there is a provision
23 that exempts orphan drugs from the fee if they have an
24 FDA indication solely for one or more rare diseases.

25 But, unfortunately, in the mechanism by which they

1 achieve that, Congress linked the ability to be exempt
2 from the fee to receipt of the orphan drug tax credit for
3 that product. That leaves out a number of companies that
4 have orphan drugs, but which, for perfectly legitimate
5 reasons, do not actually obtain the orphan drug tax
6 credit.

7 One is, in some cases, manufacturers choose to take
8 other tax credits which preclude the orphan drug tax
9 credit, even though they qualify for it. And the second
10 thing is that one is only eligible for the orphan drug
11 tax credit if you are the first to market for a rare
12 disease, and I do not think it was intended that only
13 first-to-market medicines have this provision available
14 to them, but rather any medicine that is solely designed
15 for the rare disease.

16 So, Mr. Chairman, it is my hope that we can work
17 together to correct this. I think that my amendment
18 would be in keeping with the intent of the exemption
19 built into the Affordable Care Act. And so that is what
20 I hope we will be able to achieve.

21 I will not ask for a vote on this, but I would like
22 to, if I could, just very briefly, ask if you and Senator
23 Hatch would be willing to commit to a markup on a medical
24 device tax repeal, since we were not able to get it into
25 this package.

1 The Chairman. We are going to leave the medical
2 device discussion where we just left it, but I will tell
3 you that I am going to keep working with you. You raise
4 important issues on the medical device issue. You also
5 raise important issues on the orphan drug question.

6 I share your view with respect to what this means
7 for innovation. These are areas where we are on the
8 cutting edge, but I think we covered it pretty well in
9 terms of where we are and I think we will just leave it
10 that.

11 We are going to work together in a cooperative way
12 to look at the totality of these issues.

13 Senator Carper?

14 Senator Carper. Just very briefly. I welcome what
15 you have just said and Senator Toomey, to my friend -- I
16 call it northern Delaware, we have not been able to
17 support you on some of your earlier amendments. A number
18 of us can support you and are pleased to support you on
19 this one. So let us just keep working on it.

20 Thanks so much.

21 The Chairman. We are going to work with Senator
22 Toomey and, as he knows, I am a cosponsor of your
23 underlying proposal with respect to orphan drugs.

24 So with respect to these therapies and innovation,
25 we are going to keep at it.

1 We are now just a couple away from being able to
2 pass this out.

3 Senator Menendez and Senator Toomey, you have
4 Amendment 1, Section 179.

5 Senator Menendez. Thank you, Mr. Chairman.

6 I just want to add, on the orphan drug issue, I am
7 equally as supportive. There is an issue of an IRS
8 determination that I think is wrongful and is causing the
9 consequences to some companies who did not take the
10 credit and then have a permanent bar. It does not make
11 any sense to do that. That was never what was intended.
12 And I look forward to working with you and others in that
13 regard, as well.

14 So let me call up now Amendment Number 1 of
15 Menendez-Toomey to speak about a very simple, cost-
16 effective, fully offset, and bipartisan way to help small
17 businesses across the U.S., and I would hope that we
18 could move this by voice vote.

19 The amendment that Senator Toomey and I are offering
20 would help small businesses by increasing the expensing
21 amount and the phase-out threshold of Section 179 to
22 inflation.

23 That section allows millions of small businesses to
24 expense or write off equipment in the year that it is
25 purchased, and it helps small businesses manage the cost

1 of buying equipment they need. But as my colleagues are
2 well aware, inflation can erode the value of tax
3 provisions if left unchecked.

4 It is why we index tax brackets to inflation. All
5 we are trying to do is extend the same treatment to a
6 critical tax provision for small businesses. Without
7 tying these numbers to inflation, the value of Section
8 179 for small business expensing will continue to erode
9 as the years go by. And we pay for this amendment, what
10 we believe is a very appropriate offset from the
11 President's own budget, which would index tax penalties
12 to inflation.

13 By pegging these penalties to inflation, the value
14 and, thus, the deterrent effort of the penalty remains
15 the same as the day Congress enacted it and removes the
16 need to amend the code to update the penalty values.

17 I hope we can do this in helping small businesses as
18 part of our --

19 The Chairman. Colleagues, I am prepared to accept
20 this on a voice vote. This is a Menendez-Toomey vote.
21 Would that be acceptable to the sponsors?

22 All in favor of the Menendez-Toomey amendment
23 involving small business, signify by saying aye.

24 [A Chorus of Ayes.]

25 The Chairman. Any opposed?

1 [No Response.]

2 The Chairman. The ayes have it.

3 That means the last amendment before we vote on
4 final passage is Senator Brown's to help HCTC.

5 Senator Brown. Mr. Chairman, I also was going to
6 offer and withdraw, briefly, another amendment on the CFC
7 look-through rule.

8 The Chairman. Yes. That is my understanding.
9 Which would you like to offer first?

10 Senator Brown. I will do that and get it over with
11 and then we will do the HCTC.

12 The Chairman. Colleagues, those will be the last
13 two amendments and then we will vote on final passage on
14 the extenders bill.

15 Senator Brown. Thank you, Mr. Chairman. I am not
16 going to ask for a vote on this amendment.

17 I filed an amendment to strike the controlled
18 foreign corporations look-through from the modified mark.
19 The look-through rule helps multinational corporations
20 reduce tax liability by billions of dollars.

21 In and of itself, following the law and paying fewer
22 taxes, of course, is not a bad thing, but the CFC look-
23 through rule serves no purpose other than to facilitate
24 aggressive tax strategy designed to indefinitely defer
25 taxation for some of our Nation's most profitable

1 corporations, and always that shifts the burden of
2 taxation onto domestic companies, onto small companies,
3 onto individual taxpayers.

4 This Committee engages in much needed corporate tax
5 reform. I hope it will take steps, as we talk about
6 lowering the tax rate and broadening the base, this is an
7 opportunity to broaden the base, I hope we will take
8 steps to address tax avoidance schemes like the CFC look-
9 through.

10 Mr. Chairman, I will withdraw the amendment and ask
11 the Chairman's discussion and support and work later.

12 The Chairman. We will certainly be working on
13 this.

14 Senator Hatch. Mr. Chairman, let me note for the
15 record that Senator Crapo should be listed as a no on the
16 medical device issue.

17 The Chairman. Without objection, so ordered.

18 Senator Brown, you have your health care tax credit.

19 Senator Brown. Thank you, Mr. Chairman. And thank
20 you for putting this forward and your support.

21 We all have constituents who have lost jobs, who
22 have lost jobs to trade agreements, becoming eligible for
23 trade adjustments. They have lost jobs for other
24 reasons, then they have lost their pension, something has
25 happened to far too many people in Senator Portman's and

1 my State.

2 In these issues, the PBG steps in to manage the
3 remains of hard-earned pensions and the health coverage
4 tax credit helps make health care accessible for those
5 workers.

6 It is not a substitute for a pension, of course,
7 that is earned over a lifetime, but it is important we
8 extend the health coverage tax credit for workers and
9 retirees who lost their jobs and their benefits due to
10 circumstances beyond their control.

11 These tax credits expired at the end of 2013. Now,
12 tens of thousands of retirees, like the Delphi salaried
13 retirees in places like Warren, Ohio and Dayton, Ohio,
14 their workers are in limbo.

15 By renewing the HCTC, we could remove that
16 uncertainty. Extending the tax credit for 2 years is
17 responsible until we get a permanent extension.

18 We are doing a lot of important things for workers.
19 We are promoting investment in clean energy and R&D and a
20 host of other things. HCTC is just as important.

21 Special thanks to Senator Portman, working with us
22 on the amendment; Senator Rockefeller, who has worked on
23 so many issues like this for his entire career; and,
24 Senators Schumer, Stabenow and Casey have also worked on
25 this. So a voice vote is fine with me, Mr. Chairman.

1 The Chairman. Colleagues, here is where we are. I
2 strongly support Senator Brown. We are going to have a
3 couple of other speakers.

4 Senator Hatch would like to make a correction on a
5 matter involving the Toomey amendment.

6 Senator Hatch. Let me just make the correction
7 that Senator Crapo's vote should be aye, not no.

8 The Chairman. All right. Let us go to Senator
9 Portman with respect to the Brown amendment on the health
10 care tax credit, and then Senator Rockefeller, then
11 Senator Stabenow, and I think we are going to have the
12 final vote.

13 Senator Portman?

14 Senator Portman. Mr. Chairman, you remember that
15 during the SGR markup, I offered this amendment on the
16 health care tax credit and was told that it was not
17 germane at the time, but we would take it up in future
18 vehicles. So I do think this is the appropriate vehicle
19 to take it up.

20 It did expire on the same day as the other credits
21 that we are talking about today, despite what you heard
22 earlier. So it is appropriate to be in this markup. And
23 this is for folks who are over 55 and whose pensions were
24 terminated and are being administered by PBGC.

25 It affects a lot of us in our States. Senator Brown

1 and I led a letter that five members of this Committee
2 signed. It is a bipartisan issue in that sense. It is
3 particularly important to the 20,000 Delphi salaried
4 retirees who lost their health care and lost up to 70
5 percent of their pensions in the GM bankruptcy.

6 In this case, frankly, Mr. Chairman, the government
7 did pick winners and losers and one of the losers was the
8 salaried employees. Others did get a bailout, but they
9 did not.

10 So while some employees receive their full pensions
11 and health care, including unionized employees, these
12 salaried employees lost nearly everything. So this
13 credit helps to pay for a portion of their health bill,
14 at least some of it, and I think that is the least we can
15 do is bring a legal defense against the government that
16 really took away their financial security.

17 We have got about 5,000 of these retired salaried
18 employees in Dayton, Youngstown, Sandusky, throughout the
19 State. This credit is important, though, also, to
20 thousands of other workers around the country.

21 I will say that some have said to me, "Well, you
22 know, why should we do this, because Obamacare, the
23 Affordable Care Act was supposed to pick these folks up."
24 However, I will tell you, their group health care plan,
25 which is called VEBA, is different than the Affordable

1 Care Act.

2 The cost, on average, is \$4,600 more per individual
3 under the Affordable Care Act. And so that is not a
4 solution to these folks.

5 So I would hope that we could take this up on a
6 bipartisan basis, again, and pass this by a voice vote to
7 provide these folks with the kind of help that they
8 deserve.

9 The Chairman. That is the plan. We will hear from
10 Senator Rockefeller, Senator Stabenow, then we will do
11 this on a voice vote, and go to final passage.

12 Senator Rockefeller. Mr. Chairman, I just
13 congratulate Senator Brown. This is one of those
14 amendments which a long time ago you just never felt
15 would ever make it. It was just too obscure, it was too
16 difficult. And it is one of the joys of serving on this
17 Committee that something like this, because of the
18 support of the Chairman, because of the support on a
19 bipartisan basis, this really does help people who have
20 been laid off. It just really does good and I am just
21 proud to support it.

22 The Chairman. Thank you, Senator Rockefeller.

23 Senator Stabenow?

24 Senator Stabenow. Mr. Chairman, I just want to
25 lend my support, as well, both for the Delphi employees

1 who have been hit so hard, as well as many others, and I
2 am pleased to see the great bipartisan support.

3 Senator Portman. Mr. Chairman, before you go to
4 final, just one observation. This has not been
5 historically traditionally part of the tax extenders
6 package. This is an add-on. It has normally been done
7 in the context of trade adjustment assistance, which
8 typically goes along with trade promotion authority.

9 I would just say that if we were moving trade bills
10 and trade promotion authority like we should be, that
11 would be a very appropriate way to address this, too.

12 I just want to point out that I think it is really
13 important, really important for our economy and for our
14 country to get trade promotion authority going and then
15 all these other things that go with it would have
16 necessarily followed from that.

17 The reason I think we are doing this today is
18 because on this particular piece of legislation is
19 because we have been slow and reluctant and resistant to
20 moving the trade bill.

21 The Chairman. The only thing I would say with
22 respect to Senator Brown, the rule was that we were going
23 to take up Internal Revenue Code matters that expired in
24 2013 and 2014, and that is Senator Brown's and that is
25 why it is appropriate.

1 So let us go to a voice vote. I just realized that
2 after we complete the extenders, if colleagues could stay
3 for no more than 5 additional minutes, we have what are
4 called some deadwood provisions that have to be
5 eliminated and then to finalizes Committee assignments
6 for people like Senator Warner.

7 Let us now, with respect to Senator Brown's, on a
8 voice vote.

9 All in favor of Senator Brown's amendment, please
10 signify by saying aye.

11 [A Chorus of Ayes.]

12 The Chairman. Opposed?

13 [No Response.]

14 The Chairman. None. The Brown amendment has
15 passed.

16 Now, with respect to reporting out the extenders
17 bill, if there are no further amendments, I would
18 entertain a motion that the Committee report the Expiring
19 Provisions Improvement Reform and Efficiency Act of 2014
20 as an original bill consisting of the Chairman's mark, as
21 modified and amended.

22 Senator Hatch. So moved.

23 Senator Rockefeller. I happily second that.

24 The Chairman. Thank you, Senator Rockefeller.

25 So, colleagues, the vote is now with respect to the

1 extender package.

2 All those in favor will say aye.

3 [A Chorus of Ayes.]

4 The Chairman. All those opposed will say no.

5 [A Chorus of Nays.]

6 The Chairman. The ayes have it and the bill is
7 reported, agreed.

8 All right. We now have technical corrections to do.
9 We are going to do this very quickly, colleagues.

10 Members have received two document describing the
11 technical corrections and deadwood provisions. These
12 provisions correct drafting errors and make other non-
13 policy changes of a technical nature. They have been
14 reviewed extensively by the bipartisan staffs and by the
15 Joint Committee staff.

16 All of the provisions have been agreed to by all of
17 the staffs and the provisions have no revenue effect.
18 There is a modification of the deadwood document which
19 has been agreed to by staff. The modification is deemed
20 incorporated.

21 Is there any discussion of the technical corrections
22 proposal?

23 [No Response.]

24 The Chairman. Hearing none, I would entertain a
25 motion that the Committee report the technical

1 corrections, the deadwood provisions, as proposed and
2 modified, as a single bill, the Technical Corrections Act
3 of 2014.

4 Senator Hatch. So moved.

5 The Chairman. All those in favor will say aye.

6 [A Chorus of Ayes.]

7 The Chairman. All those opposed will say nay.

8 [No Response.]

9 The Chairman. The ayes have it.

10 I ask unanimous consent that the staffs have
11 authority to make changes to bills that we have voted to
12 report today for technical, conforming and budgetary
13 reasons.

14 Without objection, consent is granted.

15 We are now, finally, going to turn to some Committee
16 organization matters reflecting Senator Baucus' departure
17 from the Committee and Senator Warner's arrival.

18 The first order of business is to reorganize our
19 subcommittees. All Senators have a complete list. The
20 principal changes are Senator Stabenow will chair the
21 Subcommittee on International Trade. Senator Bennet will
22 chair the Subcommittee on Energy, Natural Resources and
23 Infrastructure.

24 Senator Casey will chair the Subcommittee on
25 Taxation and IRS Oversight. Senator Warner will chair

1 the Subcommittee on Fiscal Responsibility and Economic
2 Growth.

3 We will also make a few other changes to Democratic
4 subcommittee assignments to provide appropriate
5 assignments for Senator Warner.

6 We also have to replace Senator Baucus on some other
7 important assignments. We are going to appoint Senator
8 Schumer as a member of the Congressional Oversight Group
9 and as a Congressional Trade Advisor, and we would
10 appoint Senator Stabenow as a member of Joint Tax.

11 I will entertain a motion that these organizational
12 changes and appointments be approved.

13 [Moved and seconded.]

14 The Chairman. All in favor, say aye.

15 [A Chorus of Ayes.]

16 The Chairman. All opposed, vote nay.

17 [No Response.]

18 The Chairman. Hearing none, the motion is
19 approved.

20 This markup is adjourned. And I want to thank all
21 my colleagues for their patience.

22 [Whereupon, at 1:20 p.m., the Committee was
23 adjourned.]

24

25

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**STATEMENT OF SENATOR NELSON
FINANCE COMMITTEE MARK-UP ON TAX EXTENDERS
APRIL 3, 2014**

Mr. Chairman, I would like to commend you and the Ranking Member for working with all of us to find some common ground on the tax extenders bill.

Chairman Wyden, thank you for having your first mark-up as Finance Committee Chairman be these important tax extenders.

Extending these provisions, which expired at the end of 2013, for two years will give us some breathing room to look closely at other parts of our tax code and see what can be done to move the ball forward on fundamental tax reform.

So congratulations on starting your chairmanship off on a great foot.

There are a number of provisions in this package that are important to me and the state of Florida

This package includes an extension of the state sales tax deduction, which is critical to my State. Florida—like many other states—does not have an income tax, and thus does not benefit from the state and local income tax deduction. Almost two million Florida families and individuals rely on the state sales tax deduction.

In 2012, these Florida taxpayers deducted more than \$2.6 billion in state sales taxes on their federal returns. The deduction helps level the playing field with the vast majority of States that do have an income tax. Senator Cantwell, I appreciate and support your work to make this permanent.

The bill also includes provisions vitally important to our housing recovery.

The bill extends a provision that allows underwater homeowners to sell their homes in a short sale without taking a massive tax hit. In a short sale or similar transaction, banks will forgive a portion of the mortgage debt that is owed by the homeowner. Normally, the homeowner would have to recognize the forgiven debt as income. But in 2007, we passed a bill to exclude this forgiven debt from income. This provision is critical to helping underwater homeowners get back on their feet, and it provides a major boost to the housing market, which has still not fully recovered. I am glad we are extending it here.

Since this provision expired at the end of 2013—which is the first time it expired—I have heard tragic story, after tragic story about homeowners who were in the process of negotiating a short sale with their banks and weren't able to finish it before the end of 2013.

Once these homeowners learned that because their short sale would occur in 2014 that they could face a large tax bill at the end of year due to their short sale—they canceled the short sale. Nobody benefits in this situation.

It doesn't help the homeowner, the bank, the person who might be buying the house, or our fragile housing recovery.

Mr. Chairman, there are a number of provisions that were originally not included in the base text, but that I am pleased to see have been included in the modified mark—including the production tax credit for wind, equity for racetracks, the incentive to encourage movie production in the U.S. and important incentives to help people preserve land and water resources.

I am also pleased to see the addition of the long-term unemployed to those who will be able to qualify for the Work Opportunity Tax Credit.

Thank you and I look forward to passing this legislation out of Committee and enacting it into law as soon as possible.